

Effective as at 30 January 2024

## 1. Interpretation

In these terms and conditions (**Terms**) and in any contract to which these Terms apply, unless inconsistent with the context:

- a) **Act** means the Consumer Guarantees Act 1993 as amended from time to time;
- b) **Business Day** means any day except Saturday or Sunday or a day that is a public or bank holiday in New Zealand;
- c) **Claim** means any claim, demand, action, expense, cost, loss, damages or proceeding;
- d) **Consequential Loss** means loss, expense or damage arising from a breach of contract, tort (including negligence), under statute or any other basis in law or in equity including, but without limitation, the following: (a) to loss of profits; (b) loss of revenue; (c) loss of contracts or anticipated contracts; (d) loss or denial of opportunity; (e) loss of access to markets; (f) loss of goodwill; (g) loss of business reputation, future reputation or publicity; (h) damage to credit rating; (i) loss of use; (j) indirect, remote, abnormal or unforeseeable loss, or any similar loss whether or not in the reasonable contemplation of the parties at the time of formation of the Contract;
- e) **Contract** means the contract between Redox and the Purchaser for or in relation to the sale and purchase of goods and services;
- f) **Force Majeure Event** includes (but is not limited to) any acts of God, war, military action, terrorist attack, riots, strikes, lock outs, trade disputes, fires, flood, break downs, mechanical failures, interruptions of transport, Government action or any other cause whatsoever that is beyond the reasonable control of Redox, whether or not of a like nature to those specified above;
- g) **Goods** means any item of whatsoever nature which is sold or to be sold by Redox to the Purchaser;
- h) **Government** means, whether local or overseas, a government or government department or other body; a governmental semi-governmental or judicial person; international organisation regulating international trade; or a person who is charged with the administration of a law;
- i) **Insolvent** means any application, agreement, resolution or appointment being made for a distress, execution, composition, or arrangement with creditors, insolvency proceedings, winding up, dissolution, administration, liquidation, receivership (administrative or otherwise), bankruptcy, the suspension of payments, any form of seizure not lifted within two months, a moratorium of indebtedness, or any similar proceedings in any jurisdiction in each case in respect of that party;
- j) **PPSA** means the Personal Property Securities Act 1999 as amended from time to time;
- k) **PPS Register** means the personal property securities registered established under section 13 (Part 10) of the PPSA;
- l) **Purchaser** means the person or corporation who buys or has agreed to buy the Goods from Redox;
- m) **Redox** means Redox Limited (NZBN 9429038410239) a registered overseas ASIC company or such other company related to Redox Limited which accepts the Purchaser's order by the issue of a Sales Confirmation;
- n) **Rented Pallets** means pallets owned by independent companies that rent pallets, including CHEP and Loscam;
- o) **Sales Confirmation** means the document so titled issued by Redox that formally accepts the order for the Goods from the Purchaser;
- p) **Security Interest** has the meaning given under the PPSA;
- q) **Specifications** means specifications as displayed on the Sales Confirmation;
- r) Words importing the singular number shall be deemed to include the plural and vice versa. Words importing the male gender shall be deemed to include the female and neuter gender and vice versa; and
- s) The headings in these Terms are provided for convenience only and do not affect the interpretation thereof.

## 2. General

- a) These Terms together with the relevant Sales Confirmation embodies the sole terms and conditions of the Contract between Redox and the Purchaser and supersedes all other conditions, representations and agreements between the parties (whether oral or in writing and whether made prior to the date of the Contract), unless expressly amended in writing by Redox. In the event of any inconsistency arising between these Terms and the relevant Sales Confirmation, the terms of the relevant Sales Confirmation shall prevail to the extent of such inconsistency.
- b) These Terms shall without further notice apply to all future transactions between Redox and the Purchaser in relation to the sale and purchase of the Goods, whether or not this document is delivered or executed in the course of the transaction, except to the extent otherwise agreed in writing by the parties.
- c) None of the terms and conditions contained in any document or other instrument supplied by or on behalf of the Purchaser (including without limitation those included in any purchase order or like document from the Purchaser) shall apply to or form part of the Contract, except and to the extent otherwise agreed in writing by Redox.

- d) All purchase orders provided by the Purchaser are subject to acceptance by Redox and no Contract between Redox and the Purchaser comes into existence until Redox issues a Sales Confirmation in relation to each and every purchase order. The Purchaser must notify Redox in writing within two (2) Business Days if a Sales Confirmation contains any errors or omissions.
- e) Redox may vary these Terms from time to time with notice by republishing them online on the Redox website, together with the date on which the new terms and conditions of sale become effective. It is the Purchaser's obligation to check the Redox website or ask Redox to provide a copy of the most up to date terms and conditions of sale at the time the Purchaser enters into a Contract. By placing a purchase order after the date upon which the new terms and conditions of sale become effective, the Purchaser accepts and is bound by the changed terms and conditions of sale for that Contract. If the Purchaser does not accept the changes to the new terms and conditions, it may notify Redox to request amendments or to close its account. No variation or abrogation of these Terms, other than amendment or variation to these Terms as set out in this clause 2.e), is valid or binding on a party unless made in writing and signed by both parties.
- f) (Small business or consumer and remedies) if the Purchaser is a small business or consumer (as defined under the Fair Trading Act or other relevant legislation), the Purchaser is hereby given the express opportunity to negotiate these Terms.

Without limiting any remedies available under the Act, if the Purchaser believes a term contained in these Terms is "unfair" as defined under the Fair Trading Act, any dispute will be addressed at first instance via the process set out in clause 22.

### **3. Payment**

- a) Unless otherwise agreed by the parties in writing payment shall be made within thirty (30) days from the end of the month in which the invoice is dated.
- b) Time for payment of the price of the Goods shall be of the essence of the Contract and if the Purchaser fails to pay the price when due Redox may treat the Contract as repudiated by the Purchaser or may, unless payment in full is made, suspend delivery of the Goods and any goods the subject of any other Contract with the Purchaser without incurring any liability whatsoever to the Purchaser in respect thereof. In addition, without prejudice to such rights of Redox, the Purchaser shall (if so required by Redox) pay interest to Redox on the outstanding amount of the price at the rate of 12% per annum for the period from the due date until the price is paid in full. The granting of credit by Redox to the Purchaser is subject to the approval of Redox's credit insurer. In the event that Purchaser's credit is refused at any time during the Contract, Redox may, at its discretion, suspend delivery of Goods until the Purchaser pre-pays for each delivery or the Purchaser's credit has been approved.
- c) Notwithstanding any rights of lien to which Redox may otherwise be entitled, Redox shall have a specific lien (including a right of sale) over the Goods and any goods the subject of any other Contract with the Purchaser until the price of the Goods has been paid in full. The Purchaser shall not be entitled to make any deduction from the price of the Goods in respect of any off-set or counter claims without prior written consent of Redox.

### **4. Delivery**

- a) Any time or date specified and accepted by Redox for completion delivery, despatch, shipment or arrival of the Goods or for tender of any documents is an estimate only and does not constitute a condition of the Contract or part of the description of the Goods and is not of the essence of the Contract.
- b) Unless otherwise stated in writing Redox may make partial deliveries or deliveries by instalments in any amount it may determine and each such partial delivery or delivery by instalments shall be deemed to be a separate Contract and these Terms shall apply to each partial delivery or delivery by instalments.
- c) Redox may deliver up to 5% more or less of the amount specified for delivery, subject only to an appropriate adjustment to the amount payable, in full satisfaction of Redox's obligations pursuant to the Contract.
- d) The Purchaser shall notify Redox within seven (7) days of delivery of any surplus, shortfall, non-compliance with the Specifications or loss or damage to the Goods delivered provided that it procures to Redox competent evidence of such surplus, shortfall, non-compliance or loss or damage. Failure to so notify (and procure competent evidence as required under this clause 4.d) shall disentitle the Purchaser to any remedy in respect to the shortfall in non-compliance or loss or damage to the Goods delivered.
- e) Subject to clause 4.d) the Purchaser is deemed to accept the Goods on delivery into the care, custody and control of the Purchaser or its agent, carrier or contractor.
- f) Redox is not responsible for damage to the Goods caused by or which arises from ordinary wear and tear, misuse, abuse (including improper or unsuitable use, storage or handling) by or on behalf of the Purchaser.
- g) In the event that any delivery to the Purchaser is futile, the Purchaser refuses to accept any part of the Goods which have been dispatched to the Purchaser, or the Goods can't otherwise be delivered to the Purchaser on the delivery date, Redox may at its absolute discretion, require the Purchaser to pay on demand a futile delivery fee comprising of, where applicable, handling, storage, transport and restocking costs.
- h) Where the Goods Redox is supplying are Hazardous Substances as defined under the New Zealand's *Health and Safety at Work Act 2015* ("NZ HSW Act"), the Purchaser herein represents, warrants, and confirms:

- i) that the address nominated for delivery of the Goods is a “workplace” as defined in NZ HSW Act, which means a place where work is being carried out, or is customarily carried out, for a business or undertaking, and includes any place where a worker goes, or is likely to be, while at work, or otherwise as amended from time to time under the NZ HSW Act;
- ii) that a competent person or that an authorised person at the Purchaser’s workplace will be at the premises at the time delivery of the Goods is made, to accept responsibility for the Goods; and
- iii) that the Purchaser will provide Redox with any documentation, consent and or confirmation required in accordance with the NZ HSW Act prior to delivery of the Goods;
- iv) that all information contained in any declaration or written notification provided to Redox is true and correct. We agree to provide Redox written notice if the address for delivery changes, the address for delivery is not a workplace and/or the name of any nominated competent or authorised person changes.
- v) that clause 4.h)i)-iv) are a condition precedent to the Goods being delivered and Redox shall not be responsible whatsoever for any deliveries not made due to the Purchaser’s non-compliance with this clause.

## **5. Risk and Title**

- a) Except as otherwise provided herein, the Goods shall be at the Purchaser's sole risk immediately on their delivery into the care, custody and control of the Purchaser or its agent, carrier or contractor.
- b) Property and title in the Goods will not pass to the Purchaser until such time as the Goods and all other goods supplied by Redox to the Purchaser have been paid for in full. Until that time, the Purchaser shall store the Goods, including goods into which the supplied Goods have been mixed, in such a manner as to show clearly that they are the property of Redox and shall upon Redox's demand deliver up such Goods to Redox. In default of such delivery, Redox may by its servants and agents enter the Purchaser's premises at any time without notice to repossess the Goods (and the Purchaser irrevocably grants Redox the right and licence to enter any premises or property of the Purchaser without notice) without being in any way liable to the Purchaser or any other party, and the Purchaser agrees to indemnify Redox against any such liability, including Claims made by any third party.
- c) Subject to the PPSA, until such time as the Goods have been paid for in full the Purchaser is at liberty to sell the Goods, including goods into which the Goods have been mixed, in the ordinary course of its business, and the Purchaser shall hold the proceeds thereof on trust for Redox and promptly account to Redox for those proceeds in payment of the purchase price for the Goods.
- d) The Purchaser and Redox agree that the provisions of this clause 5 apply notwithstanding any agreement between the parties under which Redox grants credit to the Purchaser.
- e) The parties agree that any Goods supplied by Redox to the Purchaser are inventory as that term is defined in the PPSA.
- f) The Purchaser further agrees that where Redox has rights in addition to those under Part 9 of the PPSA, those rights shall continue to apply.

## **6. Personal Property Securities Act 1999**

- a) For the purpose of this clause 6, the defined terms used in this clause have the meanings given in the PPSA.
- b) The Purchaser acknowledges and agrees that acceptance of these Terms which form part of the Contract constitutes a Security Agreement that covers the Collateral for the purposes of the PPSA:
  - i) Redox holds (as Secured Party) a Security Interest over all of the present and after acquired goods supplied by Redox to the Purchaser, any goods into which such goods are commingled by the Purchaser, any goods which were manufactured by the Purchaser with the aid of the Goods but do not form part of the end goods, and any Proceeds of the sale of those goods (“Collateral”);
  - ii) that any purchase by the Purchaser on credit terms from Redox or retention of title supply pursuant to clause 5 hereof will constitute a purchase money security interest as defined under section 16 of the PPSA (“PMSI”);
  - iii) the PMSI granted herein will continue to apply to any goods coming into existence or proceeds of sale of goods coming into existence;
  - iv) Redox will continue to hold a Security Interest in the Goods in accordance with and subject to the PPSA, notwithstanding that the Goods may be processed, commingled or become an accession with other goods.
  - v) any Redox Security Interest will be a continuing and subsisting interest in the Collateral with priority to the fullest extent permitted by law over all over registered or unregistered Security Interest;
  - vi) until title in the Goods pass to the Purchaser, it will keep all goods supplied by Redox free and ensure all such goods are kept free of any charge, lien or other Security Interest and not otherwise deal with the Goods in a way that will or may prejudice any rights of Redox under the Contract or the PPSA; and

- vii) in addition to any rights Redox may have under these Terms and Part 9 of the PPSA, Redox may, without notice, enter any premises where it expects the Goods may be located and remove them without committing a trespass, and the Purchaser authorises Redox to enter onto the premises where the Goods are kept to take possession of the Goods for that purpose at any time. The Purchaser indemnifies Redox from and against all Claims as a result of exercising rights under this clause 6.
- c) The Purchaser undertakes to:
  - i) sign any further documents and provide such information which Redox may reasonably require to register, amend or update a Financing Statement or Financing Change Statement in relation to a Security Interest on the PPS Register;
  - ii) indemnify and upon demand reimburse Redox for all expenses incurred in registering a Financing Statement or Financing Change Statement on the PPS Register or releasing any Security Interests; and
  - iii) not register or permit to be registered a Financing Change Statement in the Collateral without the prior written consent of Redox.

Redox and the Purchaser agree that sections 114(1)(a), 116, 117, 119, 120(2), 121, 129, 131, 132 and 133 of the PPSA do not apply to the Security Agreement created under the Contract.
- d) The Purchaser acknowledges and agrees that it waives its rights to receive any notices under the PPSA (including the notice of a verification statement) unless the notice required by the PPSA cannot be excluded.
- e) The Purchaser shall unconditionally ratify any actions taken by Redox under this clause 6.
- f) This clause 6 will survive the termination of the Contract to the extent permitted by law.

## **7. Warranties and Exclusions of Liability**

- a) Redox warrants that the Goods when delivered to the Purchaser will comply with any description for the Goods contained in the relevant Sales Confirmation and with the Specifications. Redox is not required to supply goods with any specifications or characteristics that are outside any such description for the Goods or the Specifications.
- b) The Purchaser acknowledges, agrees, represents and warrants that:
  - i) as the use of the Goods is outside the control of Redox, the Purchaser is satisfied that the Goods will have the condition, characteristics, quality and attributes that will make them suitable or fit for any ordinary or special purpose required for those Goods, even if that purpose is made known to Redox at any time;
  - ii) the Purchaser has or will in a timely manner conduct all mandatory or prudent tests and apply all mandatory or prudent quality control checks and procedures to ensure the Goods (whether for the purpose of using the Goods in the course of production or manufacture or repairing or treating other goods) and any product that is produced from them will be without defect and suitable or fit for any purpose required for the Purchaser; and
  - iii) the Purchaser has not relied upon any statement, representation, warranty, guarantee, condition, advice, recommendation, information, assistance or service provided or given by Redox or anyone on its behalf in respect of the Goods, other than those that are expressly contained in the Contract.
  - iv) So far as the law permits Redox contracts out of the Act.
- c) The Purchaser releases and indemnifies Redox and its officers, employees, consultants and agents from and against any Claims (including those brought by third parties) which may be brought against it or them, whether on their own or jointly with the Purchaser and whether at common law, under tort (including negligence), in equity, pursuant to statute or otherwise, in respect of any loss, death, injury, illness, cost or damage arising out of any breach by the Purchaser of any warranty provided by it under clause 7.b).
- d) Except as expressly set out in the Contract to the full extent permitted by law:
  - i) all conditions, warranties, guarantees, terms and obligations expressed or implied by law or otherwise relating to the Contract or the performance of Redox's obligations under the Contract or to any goods or services supplied or to be supplied by Redox under the Contract are excluded, except for those conditions and warranties as to title in the Goods; and
  - ii) including without limitation, Redox gives no condition, warranty or guarantee whatsoever as to the suitability, performance or fitness of the Goods for their ordinary or any special use or purpose, and the description of the Goods in any Contract or any other document shall not import any such condition, warranty or guarantee on the part of Redox.
- e) Notwithstanding anything to the contrary herein contained, Redox's liability in respect of any Claim arising in any way out of the Contract or its performance or from any failure to perform the Contract including (without limitation) for breach of any condition, warranty or guarantee contained in the Contract and whether that liability arises under contract, tort (including negligence), breach of statutory duty or otherwise, is limited as follows:

- i) if any guarantee under the Act is applicable to any good or service supplied by Redox and Redox's liability is due to a failure to comply with the guarantee and such failure cannot be remedied or is a major failure as defined in the Act (each such failure hereafter referred to as a "Relevant Failure"), Redox's liability is as stated in the Act in respect of that Relevant Failure;
- ii) if the liability is due to a failure to comply with any condition, warranty or guarantee in respect of any good or service supplied by Redox under the Contract and such failure is not a Relevant Failure, Redox's liability is limited as follows in respect of such failure to whichever is the lowest amount:
  - (A) if the failure is in respect of the Goods, Redox's liability is limited to replacement of the Goods or the supply of equivalent goods, the repair of the Goods, payment of the cost of replacing the Goods or of acquiring equivalent goods, or payment of the cost of having the Goods repaired, as determined by Redox in its sole discretion; and
  - (B) if the failure is in respect of services, Redox's liability is limited to the supply of the services again or payment of the cost of having the services supplied again, as determined by Redox in its sole discretion;
- iii) in respect of all other liability (if any), Redox's liability is limited in the aggregate to the amount of \$10,000.
- f) To the extent permitted by law, both parties will have no liability to the other party however arising and under any cause of action or theory of liability, in respect of special or Consequential Loss arising out of or in connection with the Contract or its performance.
- g) Redox will have no liability whatsoever for non-conforming Goods, including any non-conformance caused by loading or unloading of the Goods, or deterioration or failure of the Goods or any part thereof whether due to manufacture, development, design or materials or from any cause whatsoever unless the same is caused or contributed to by the negligence or wilful default of Redox, its employees, subcontractors or agents.

## **8. Return of Goods**

- a) Goods supplied to the Purchaser are not returnable except as provided in clause 7 above.
- b) In the event the Purchaser requests to return the Goods after delivery, despite the Goods being in accordance with clause 7.a) Redox may, at its absolute discretion, accept the return of the Goods, provided that the Purchaser pays a cancellation fee (comprising of, where applicable, handling, storage, transport, interest (in respect of any delayed payments for the Goods) and disposal costs.

## **9. Indemnity**

The Purchaser shall keep Redox indemnified against all Claims and liabilities of whatsoever nature, including, without prejudice to the generality of the foregoing, claims of death, personal injury, damage to property which may be made against the Purchaser or which the Purchaser may sustain, pay or incur as a result of or in connection with the manufacture, sale, export, import or use of the Goods unless such Claims or liabilities shall be directly and solely attributable to any breach of contract or guarantee by, or negligence of, Redox or its duly authorised employee or agent.

## **10. Health, Safety and Environment**

It is the Purchaser's responsibility to ensure that all applicable health, safety and environment regulations are observed and other appropriate steps taken in relation to the storage, handling, transport, disposal and the use of the Goods and potential hazards and the relevant information relating to the Goods, are brought to the attention of its employees, agents, sub-contractors, visitors and customers. Without prejudice to the foregoing, it is also the Purchaser's responsibility to provide safe facilities for the reception of the Goods into storage.

## **11. Goods and Services Tax (GST)**

- a) For the purpose of this clause 11 the terms 'GST' means the goods and services tax payable pursuant to the Goods and Services Tax Act 1985 as amended from time to time (GST Law) and 'taxable supply' has the same meaning as in the GST Law.
- b) Unless expressly stated otherwise, all prices quoted are exclusive of GST.
- c) GST will be charged on those goods that attract GST at the applicable rate and the Purchaser must pay the GST inclusive amount on the taxable supply.

## **12. Industrial Property Rights**

- a) The Purchaser shall not alter, remove or in any way tamper with any of the trade or other marks or numbers of Redox attached to or placed upon the Goods.
- b) The Purchaser agrees that nothing in the Contract grants the Purchaser any right, title or interest in any trade or other marks or numbers of Redox that are attached to or placed upon the Goods and covenants not to claim any right, title or interest to the trade

or other marks or numbers that are attached to or placed upon the Goods by virtue of any rights granted to the Purchaser by the Contract.

### **13. Force Majeure**

- a) Neither party shall be under any liability whatsoever for the consequences of any failure on its part to perform or delay in performing any obligation under the Contract when due, whilst and to the extent that such failure or delay is due directly or indirectly to any Force Majeure Event. This includes any liability whatsoever for any delay in completion, delivery, despatch, shipment or arrival of the Goods or in the tender of any documents or the like or total or partial suspension of deliveries by Redox.
- b) If there is a Force Majeure Event, the party suffering the Force Majeure Event will notify the other party of the event and the likely impact on its performance under the Contract.
- c) If a Force Majeure Event continues for more than sixty (60) consecutive Business Days, either party may terminate the Contract by giving the other party a seven (7) days' written notice.
- d) Nothing in this clause 13 will excuse a Purchaser from any obligation to make a payment when due under the Contract or from performing its obligations under the Contract due solely to lack of funds.

### **14. Notices**

All notices required or permitted to be given hereunder shall be in writing and shall be deemed given (i) upon the second Business Day after mailing, if sent by registered or certified mail, return receipt requested; (ii) upon delivery, if delivered by hand or by courier; (iii) when received, if sent by facsimile or email as indicated on the receipt of transmission to the parties at the designated address, or at such other address as may be designated by notice given in accordance with this provision.

### **15. Assignment**

Neither party may assign or transfer or purport to assign or transfer any of its rights or obligations under or in connection with the Contract to any other person or corporation whatsoever without written consent of the other party.

### **16. Sub-contract**

Redox reserves the right to sub-contract (for example, delivery) the performance of any Contract or part thereof to any other party or person or corporation it may determine.

### **17. Proper Law and Jurisdiction**

All Contracts made between Redox and the Purchaser shall be governed by and construed in accordance with the laws of New Zealand. The Purchaser agrees to submit to the non-exclusive jurisdiction of the New Zealand Courts and courts of appeal therefrom for all purposes of or in connection with such Contracts.

### **18. Cost Recovery**

Any expenses, costs or disbursements incurred by Redox in recovering any outstanding monies owing by the Purchaser including debt collection fees and legal costs shall be paid by the Purchaser plus any reasonable out of pocket expenses as a debt due and payable.

### **19. Termination**

- a) Each party may terminate the Contract immediately if the other party:
  - i) commits a breach of any material term of the Contract or these Terms and such breach:
    - (A) is not capable of remedy; or
    - (B) is capable of remedy but the other party fails to remedy that breach within thirty (30) days from the date of receiving notice in writing of any such breach; or
  - ii) becomes Insolvent.
- b) If the Purchaser cancels or terminates a purchase order which has been accepted by Redox, other than under grounds permitted under clause 19.a), the Purchaser agrees to pay for the Goods, which are held by Redox as floor stock or which are in transit from the manufacturer to Redox, ordered pursuant to that purchase order prior to cancellation or termination and the Purchaser will also reimburse Redox for any storage, transport, interest (in respect of any delayed payments for the Goods) or disposal charge (if applicable).
- c) If a purchase order is cancelled or terminated by the Purchaser:
  - i) prior to its acceptance by Redox, no contractual obligation exists between the parties; or

- ii) after its acceptance by Redox, the Purchaser shall pay Redox for such Goods in accordance with these Terms.
- d) If, under the Contract, the Purchaser is obliged to take the agreed quantity of the Goods ("Agreed Goods") within the agreed period, and the Purchaser fails to do so, then the Purchaser must pay Redox for the Agreed Goods as a debt due and payable within twenty (20) days from the date of receiving notice in writing from Redox.

## **20. Rented Pallets**

- a) If the Goods are delivered to or collected by the Purchaser or its agent, carrier or contractor on Rented Pallets, the Purchaser agrees to either:
  - i) at the time of delivery or collection, physically exchange or return the equivalent quantity of Rented Pallets either to Redox's carrier or agent delivering the Goods or directly to Redox with the same type of the Rented Pallets; or
  - ii) accept transfer of the same number and type of the Rented Pallets from Redox account to its account of the relevant Rented Pallet company.
- b) Rented Pallets will be deemed to be in the Purchaser's possession until exchanged, returned or transferred as envisaged in clause 20.a).
- c) All risks whatsoever and costs associated with the Rented Pallets vest in the Purchaser. At all times, Redox retains the right of possession of any Rented Pallets used for delivery of the Goods and the Purchaser indemnifies Redox for:
  - i) the full price of any new pallets in respect of any Rented Pallets not exchanged, returned or transferred in good order and condition to Redox within one (1) month of delivery of the Goods; and
  - ii) if exchanged, returned or transferred after one (1) month of delivery of the Goods, then all rental on those Rented Pallets that may be charged by the Rented Pallet company to Redox.

## **21. Hardship**

- a) For the purposes of this clause, "Hardship Event" means:
  - i) any changes in raw material inputs which leads to increased costs to Redox in sourcing the Goods from an international manufacturer, including but not restricted to increases in fuel prices, energy costs, or freight and transport costs; and/or
  - ii) any changes to or introduction of new central or regional laws, regulations or policies which lead to increased costs to Redox in sourcing the Goods from the international manufacturer; and/or
  - iii) any changes to the Specifications from Redox's supplier during the term of the Contract, with which the Purchaser does not agree.
- b) If, at any time during the supply period to which the Contract relates, a Hardship Event occurs, Redox may notify the Purchaser of such occurrence, and request a meeting to discuss appropriate changes to the terms of the Contract (including pricing terms or delivery dates) or adjustments to the supply price in light of such Hardship Event ("Hardship Notice").
- c) The Purchaser and Redox will discuss possible options to minimise the impact of the Hardship Event, having regards to Redox's discussion with the manufacturer. If the parties are unable to reach agreement on appropriate changes to the Contract price or other terms of the Contract within fourteen (14) days of the date of the Hardship Notice, then Redox may increase the price of the Goods to the extent required to pass on such increased costs resulting from the Hardship Event. Such cost increase shall take effect from the date of the Hardship Notice. The Purchaser is not obliged to agree to any change to the terms of the Contract as a result of a Hardship Event, however, if the parties are unable to reach agreement on appropriate changes to the Contract price or other terms of the Contract within fourteen (14) days of the date of the Hardship Notice, and Redox is not prepared to continue supplying the Goods, then Redox may suspend supply of the Goods for the balance of the term of the Contract.

## **22. Dispute Resolution**

- a) Before court or arbitration proceedings other than for urgent interlocutory relief may be commenced, the following steps must be taken to attempt to resolve any dispute that arises out of or in connection with the Contract (including any dispute as to the validity, breach or termination of the contract, or as to any claim in tort, in equity or pursuant to any statute).
- b) Notice ("Dispute Notice") must be given in writing by the party claiming that a dispute has arisen to the other party (or parties) to the Contract specifying the nature of the dispute.
- c) Upon receipt of the Dispute Notice, the parties must attempt to agree upon an appropriate procedure for resolving the dispute.
- d) If within ten (10) Business Days of receipt of the Dispute Notice the dispute is not resolved or an appropriate alternative dispute resolution process is not agreed, then the parties shall refer the dispute to the New Zealand Dispute Resolution Centre (NZDRC) (company number: 2301888); Ground Floor, 9 Anzac Street, Takapuna, Auckland, 0622, New Zealand for facilitation of a mediation in accordance with NZDRC.

- e) The parties must co-operate with Resolution Institute as facilitator. Any mediation meetings and proceedings under this clause 22 must be held in Auckland.
- f) The parties must continue to perform their obligations under these Terms notwithstanding the existence of any dispute.
- g) This clause will remain operative after the Contract has been performed and notwithstanding its termination.

### **23. Electronic Signatures**

- a) For the purpose of this Clause “Electronic Signature” shall mean data in electronic form which is attached to or logically associated with other data in electronic form and which is used by a signatory to sign and includes, without limitation, typing a name into a contract, inserting a signature (in the form of an image) into a contract or using a web-based electronic signature platform to generate an electronic representation of a handwritten signature or a digital signature using public key encryption technology.
- b) The parties agree that these Terms and any Contract between the parties may be signed by way of an Electronic Signature. The parties agree that the Electronic Signature appearing on these Terms or any Contract between the parties are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility and shall be conclusive evidence of that party’s intention to be legally bound as if such signature had been written by hand.
- c) In the event that an Electronic Signature is, for any reason whatsoever, not recognised by any relevant person, entity or authority in any applicable jurisdiction, each Party undertakes, upon request, to promptly provide a handwritten signature on any relevant document.
- d) These Terms and any Contract between the parties may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same contract. A counterpart bearing an Electronic Signature shall satisfy the requirements of this Clause.
- e) The party affixing the Electronic Signature to these Terms and any Contract between the parties confirms they have the authority on behalf of the Purchaser to sign these Terms any such other Contract, on behalf of the Purchaser by way of Electronic Signature.