

STANDARD TERMS AND CONDITIONS OF SUPPLY

Boxes 24 Pty Ltd (ABN 39 676 044 161)

Version B-0001 – May 2024

ABN: 39 676 044 161

BOXES 24 PTY LTD
Unit 1 & 2
21 Pedlar Circuit
Rockingham
WA, 6168

1. APPLICATION OF TERMS

These Terms apply to and govern the supply of Products by Boxes 24 to the Customer, to the exclusion of any other terms or conditions put forward by the Customer (including in a purchase order or similar document) at any time, unless otherwise agreed to by Boxes 24 in writing. An Order, or the Customer's acceptance of Products supplied by Boxes 24, is deemed acceptance of these Terms.

2. ORDERING

2.1 Quotations

A Quote is indicative only, is not an offer to contract, and may be withdrawn or varied by Boxes 24 at any time prior to the Contract for those Products being formed in accordance with these Terms. A Quote is valid for 60 days from the date of the Quote, after which it will automatically expire.

2.2 Orders and formation of Contract

- (a) Boxes 24 may accept or reject an Order, at its absolute discretion. An Order made by the Customer pursuant to a Quote will not bind Boxes 24 unless and until such Order is accepted by Boxes 24.
- (b) If following Boxes 24's acceptance of an Order, but before delivery of the Products, the quoted costs to be incurred by Boxes 24 in supplying Products to the Customer (including without limitation wages, materials, energy or transport to Boxes 24) increase, Boxes 24 may vary the Purchase Price by a fair and reasonable amount to cover such increase, by giving the Customer written notice to that effect. The varied Purchase Price will apply unless the Customer, within 7 Business Days of the date of the variation notice, notifies Boxes 24 in writing that it wishes to cancel the Order.
- (c) Each Order accepted by Boxes 24 constitutes a separate Contract in relation to that Order.

2.3 Forecasts

- (a) The Customer may provide Boxes 24 with a forecast of the Customer's anticipated future requirements for Products (**Forecast**). The Customer must use all reasonable care and diligence in preparing a Forecast to ensure it is reasonably accurate and not misleading. The Customer acknowledges that Boxes 24 may rely on a Forecast in ordering raw materials and organising resources (including labour) to meet the requirements of a Forecast.
- (b) Boxes 24 may invoice the Customer for all finished Products made to meet a Forecast unless the Customer places Orders for those Products within 2 months of manufacture, and to the extent not otherwise invoiced, all Losses suffered or incurred by Boxes 24 relying on a Forecast which is materially inaccurate. The usual payment terms under clause 7 will apply.

2.4 Cancellation

The Customer may, by written notice, request to cancel an Order, in which case the Customer must reimburse Boxes 24 for the costs it has incurred (including labour and materials) in fulfilling the Order up to the date the request for cancellation is received by

Boxes 24, together with Boxes 24's loss of anticipated profit.

3. PRODUCTS AND MANUFACTURING

3.1 Documents provided by Boxes 24

Any Product descriptions or illustrations detailed in documents or information provided by Boxes 24 (including, but not limited to, illustrations and material contained in any catalogue, price list, brochure, leaflet, specification sheets and electronic communications) are of a general nature, do not form part of the Contract, and do not amount to a representation or warranty.

3.2 Documents provided by the Customer

Where the Customer provides any designs, drawings, specifications or other information or material (**Customer Specifications**) to Boxes 24:

- (a) The Customer warrants that any Products (including packaging or artwork) manufactured by Boxes 24 which incorporate or are based in whole or part on Customer Specifications will not infringe any Intellectual Property Rights of a third party, or breach any law. The Customer indemnifies Boxes 24 from and against all Losses suffered or incurred by Boxes 24 in relation to any Claim that the Specifications infringe any Intellectual Property Rights of a third party, or breach any law.
- (b) Boxes 24 may make any changes to Customer Specifications as required to comply with any applicable safety or statutory requirements, which do not materially affect the quality or usage of the Products.
- (c) Boxes 24 does not guarantee any standard or performance in any capacity whatsoever of Products manufactured or supplied by Boxes 24 which incorporate or are based in whole or in part on Customer Specifications.
- (d) Boxes 24 will not be liable in relation to any defect in the Products arising from Customer Specifications.

3.3 Advice

Boxes 24 may from time to time provide advice, recommendations, information or assistance to the Customer in relation to the Products or their use or application. Any such advice, recommendation, information or assistance is provided in good faith, and believed by Boxes 24 to be appropriate and reliable. To the maximum extent permitted by law, Boxes 24 disclaims and does not take any liability in relation to the same.

3.4 Artwork

- (a) Where the Customer approves any artwork or proofs submitted by Boxes 24 in relation to Products, Boxes 24 will not be liable for any errors or inaccuracies subsequently discovered.
- (b) If Boxes 24 is required to complete artwork in accordance with the Customer's Specifications, the Customer indemnifies and holds harmless Boxes 24 from all Losses that Boxes 24 suffers or incurs in relation to any Claim that such artwork infringes any Intellectual Property Rights. This clause 3.4(b) should not be read as limiting clause 11.
- (c) If the Customer provides artwork to Boxes 24 for use in relation to the manufacture or supply of Products, the use of

such artwork by Boxes 24 will not be construed as a warranty or representation by Boxes 24 that the artwork complies with any relevant legislation (whether in Australia or elsewhere) in relation to labelling of goods. The Customer indemnifies and holds harmless Boxes 24 from all Losses that Boxes 24 suffers or incurs in relation to any Claim as a result of the reproduction or use of such artwork.

3.5 **Global Trade Item Number**

- (a) If applicable, the Customer must provide the correct Global Trade Item Number (**GTIN**) to Boxes 24 in writing. Boxes 24 will exercise reasonable care in printing the GTIN symbols but does not provide any guarantee as to their accuracy or ability to be scanned.
- (b) If the Customer supplies the artwork for the GTIN symbol, the Customer must ensure substantial compliance with the specifications for such symbols contained in the most recent edition of the applicable Industry Guidelines for the Numbering and Barcoding of Trade Items.
- (c) A GTIN symbol will not be considered defective if it is commercially scannable or is in substantial compliance with GTIN specifications at the time of manufacture. Boxes 24's liability for manufacturing defects in GTIN symbols is limited to, at Boxes 24's discretion, replacement of the packaging bearing the symbol determined to be defective, or rectification of the symbol, with the manner of rectification at Boxes 24's discretion.

3.6 **Tooling, moulds, dies and designs**

All tooling, dies, designs, sketches, negatives, photographs, plates, moulds, stereotypes, blocks and engravings commissioned or made available by Boxes 24 in relation to the supply of any Products remains the property of Boxes 24, notwithstanding that Boxes 24 may charge the Customer for their recovery, creation, use, maintenance and storage of the same.

3.7 **Quantity and quality tolerances**

- (a) Each Order must satisfy the minimum production/run-size requirements of Boxes 24. The quantity of Products delivered by Boxes 24 under an Order can vary by up to 10% of the quantity specified by the Customer in the Order.
- (b) If the Customer Specifications do not include detailed colour specifications, Boxes 24 may develop colour specifications and print the Products according to the Customer's general instructions.
- (c) If Boxes 24 is required to develop colour specifications according to the Customer's general instructions, the Customer must either attend Boxes 24's premises to view the production run for approval, or be provided samples by mail for approval, and in either case must approve the colour specifications by initialling the approved samples. Subsequent production runs will be based on the approved colour specifications. If the Customer fails to approve colour specifications developed by Boxes 24, the Customer waives

any right to object to the limits of colour variation developed by Boxes 24 for that production run.

- (d) If the Customer selects colour specifications for light, nominal and dark standards specifying the nominal colour reproduction and associated light and dark limits, the Customer may only object to the nominal colours selected by the Customer if such colours have been nominated using a colour system accepted by Boxes 24.
- (e) If the Customer Specifications provided to Boxes 24 include detailed colour specifications, the Customer must accept any Products in which the colour specification varies from that requested by the Customer, provided such variation does not exceed established or usual industry tolerances.

3.8 **Subcontracting**

Boxes 24 may engage subcontractors to perform its obligations under the Contract, but will remain responsible for ensuring such subcontracted obligations are performed in accordance with the Contract.

4. **DELIVERY**

4.1 **Obligation to deliver**

- (a) Unless alternative delivery or collection arrangements are made by the Customer, Boxes 24 will use all reasonable endeavours to deliver the Products to the address nominated, and by any delivery date requested (if any), by the Customer in an Order. The Customer must not request a delivery date that is more than 30 days after the expected date of manufacture of the Products, as advised by Boxes 24.
- (b) Boxes 24 does not guarantee that it will be able to deliver Products on the requested delivery in an Order and will not be liable for any Loss incurred or suffered by the Customer in relation to early or late delivery.
- (c) Delivery may occur in more than one instalment. The Customer must unload the Products at the nominated delivery address, at the Customer's risk and cost.
- (d) Delivery of Products is complete when the Products have been delivered and unloaded at the nominated delivery address and transferred into the possession, custody or control of the Customer (or a carrier, freight forwarder or other representative nominated by the Customer or the Customer's agent).

4.2 **Specific transport**

If the Customer requests delivery of the Products by transport means other than those normally used by Boxes 24, the Customer must pay any additional costs associated with the requested transport means. If, within 7 days after the Products become available for despatch to the Customer, Boxes 24 is unable to, or determines that it is impractical to, use the transport means requested by the Customer, Boxes 24 may arrange transport by any other means it determines is suitable.

4.3 **Insurance**

- (a) Boxes 24 will not be required to arrange insurance for Products in transit unless specifically requested by the

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Customer in writing at the time of placing an Order, or included by Boxes 24 in a Quote.

- (b) The Customer agrees that Boxes 24 is not required to provide the Customer with a notice pursuant to section 32(3) of the *Sale of Goods Act 1983* (WA) or any equivalent legislation.

4.4 Containers

Boxes 24 retains all rights in relation to dividers, pallets or containers used for the delivery of the Products. The Customer must return such dividers, pallets or containers to Boxes 24 in good condition within 30 days of delivery, unless Boxes 24 has agreed otherwise in writing. The Customer indemnifies Boxes 24 from the cost of Boxes 24 hiring or replacing any dividers, pallets or containers which are not returned as required by this clause 4.4.

4.5 Failure to accept delivery

If the Customer is unable, unwilling or otherwise fails to take delivery of any Products:

- (a) Those Products are deemed to have been delivered, and Boxes 24 is entitled to charge a reasonable fee (including its costs) for storage, insurance and re-delivery (as applicable) of those Products.
- (b) After 7 days of holding the Products, Boxes 24 may treat the Customer as having repudiated the Contract, and Without prejudice to any other rights or remedies, may dispose of the Products and may claim from the Customer the full Purchase Price for the Products and any other costs incurred by Boxes 24 (less any amounts received for a bona fide sale of the Products to a third party).

5. RISK AND TITLE

- 5.1 All risk in and to the Products passes to the Customer on delivery of those Products in accordance with clause 4.1(d).
- 5.2 Title in Products passes from Boxes 24 to the Customer upon the Customer having paid (and Boxes 24 having received) the Purchase Price for those Products and all other Outstanding Payments.
- 5.3 Until such time as title in the Products passes to the Customer under clause 5.2, the Customer must keep the Products separate and identifiable as those supplied by Boxes 24, and ensure that the Products are properly stored and adequately insured.
- 5.4 If the Customer sells or purports to sell any Products supplied by Boxes 24 in which title has not passed to the Customer, then the Customer does so as a fiduciary for Boxes 24, and the proceeds of any such sale are the property of Boxes 24 to the extent of any Outstanding Payments owed to Boxes 24 by the Customer. The Customer must hold that portion of the sale proceeds on trust for Boxes 24, and account to Boxes 24 for that portion of the sale proceeds on demand.

6. CREDIT FACILITY

- 6.1 Boxes 24 may, in its absolute discretion, grant the Customer a credit facility for the amounts payable in relation to Orders, on such terms and conditions as Boxes 24 may determine (**Credit Facility**). As a condition of granting a Credit Facility, Boxes 24 may require the Customer to complete and sign a credit application, and provide

any relevant supporting documents or information, as Boxes 24 may require in its absolute discretion. A credit application may require a personal guarantee or other security be provided by or on behalf of the Customer.

- 6.2 Without limiting clause 6.1, Boxes 24 may, in its sole and absolute discretion, specify the maximum amount that may be charged to the Credit Facility within a specified time (**Credit Limit**), and having regard to its reasonable legitimate business interests and in consultation with the Customer regularly assess the Credit Limit, and adjust it accordingly by increasing or decreasing it, or suspend or terminate the Credit Facility.

- 6.3 Boxes 24 is not liable for any Loss whatsoever in relation to Boxes 24's refusal to provide a Credit Facility or Boxes 24's increase, decrease, suspension, cancellation or termination of the Credit Facility or Credit Limit (as applicable).

7. PAYMENT

7.1 Purchase Price

- (a) The Purchase Price for Products is the price specified in a Quote provided for those Products, or if a Quote is not provided, either Boxes 24's publicly advertised list price for those Products at the date the Order is accepted by Boxes 24 or, if a list price is not publicly advertised, the price specified on an invoice by Boxes 24 issued to the Customer. Boxes 24 may amend a quoted or specified Purchase Price for a Product if the Customer requests any variation to the Product or its specifications.
- (b) Unless Boxes 24 agrees otherwise in writing, the Purchase Price excludes GST, transportation/freight costs, insurance costs, storage costs, customs and import duties, and other out-of-pocket expenses. Boxes 24 may charge the Customer an additional amount for any such items or expenses, if applicable.
- (c) Unless Boxes 24 agrees otherwise in writing, the Purchase Price of Products to be delivered outside Australia are quoted on a Free Alongside Ship (or FAS) basis under Incoterms 2020.

7.2 Deposit

Boxes 24 may require the Customer pay a deposit of up to 100% of the Purchase Price for any Order (**Deposit**), and is not under any obligation to commence or continue any work in relation to the supply of Products (whether the subject of a requested Deposit) unless a requested Deposit has been received. A Deposit is not refundable to the extent of any amount payable by the Customer to Boxes 24 under clause 2.4.

7.3 Rise and fall

Boxes 24 may, by written notice to the Customer, increase the Purchase Price for Products by an amount that reasonably and proportionately reflects the increased cost incurred by Boxes 24, if there is an increase of 10% or more in:

- (a) the cost at which Boxes 24 procures materials (including raw materials) or third party services directly related to the supply of Products; or

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- (b) a material change occurs to applicable laws or as a result of any order, instruction or decree from a Government Agency such that Boxes 24's direct cost of supplying the Products.

7.4 Invoicing and payment

- (a) Boxes 24 will issue the Customer an invoice for the Purchase Price and all other amounts payable by the Customer under the Contract in relation to an Order (or part of an Order). Boxes 24 may require the amount payable for an Order to be paid in instalments, and may issue the Customer separate invoices for each instalment.
- (b) Unless Boxes 24 agrees otherwise in writing, or if a Credit Facility has been approved under clause 6, the Customer must pay the amount claimed by Boxes 24 in an invoice (less any Deposit the subject of the invoice already paid) within 5 Business Days of the date of the invoice. If a Credit Facility has been approved by Boxes 24, unless the terms of that facility state otherwise, invoiced amounts must be paid within 30 days from the end of the month in which the invoice was issued.
- (c) The Customer must make payment of invoiced amounts by electronic funds transfer or, at Boxes 24's discretion, by cheque, credit card, direct debit or any other method of payment.
- (d) If the Customer disputes any amount shown on an invoice given by Boxes 24, it must notify Boxes 24 within 5 Business Days of receiving that invoice, and must pay any amounts not in dispute. If an Order is invoiced in instalments, each invoice must be paid, regardless of whether any other lot is not delivered or delivered late. The Customer must not deduct any money claimed to be due to the Customer by Boxes 24 under the Contract or otherwise from any money due, or which becomes due, for payment by the Customer to Boxes 24, or any money of Boxes 24 held by the Customer.
- (e) In addition to any other rights Boxes 24 may have, interest at the rate of 10% per annum (calculated daily) accrues, and must be paid by the Customer to Boxes 24, on overdue amounts owed by the Customer to Boxes 24 under the Contract, from the date when payment becomes due until the earlier of payment or judgment.
- (f) Boxes 24 is not required to supply, or to continue the supply of, any Products until all invoiced amounts are received in full.
- (g) Boxes 24 may apply payments made by the Customer toward Outstanding Payments as it sees fit, notwithstanding any contrary appropriation by the Customer.

8. WARRANTIES

- 8.1 The following warranty applies if the Customer is a "consumer" under the Consumer Law and either:
- (a) the price of goods or services is less than the amount prescribed under the Consumer Law; or
- (b) the goods or services are of a kind ordinarily acquired for personal, domestic or household use or consumption (irrespective of the price).

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

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

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done, you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

- 8.2 To the maximum extent permitted by law, Boxes 24's liability in relation to any breach or failure to comply with a Mandatory Right is limited to the following, at Boxes 24's discretion:

- (a) in the case of goods – replacement of the goods or the supply of equivalent goods, 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; and
- (b) in the case of services – supply of the services again, payment of the cost of having the services supplied again.

- 8.3 Subject to clause 8.1, Boxes 24 does not provide any warranties or make any representations in relation to the Contract (including as to the condition, suitability, quality, fitness for any purpose, safety of, or title to, goods or services (as applicable)) other than as expressly stated in the Contract, and all terms, conditions, guarantees and warranties which would, but for this clause 8.3, be implied into the Contract are excluded to the maximum extent permitted by law.

9. LIABILITY

- 9.1 A party is not liable to the other party for any Excluded Loss in relation to the Contract or otherwise, unless and to the extent the Contract expressly states otherwise.
- 9.2 To the extent permitted by law, Boxes 24's maximum aggregated liability to the Customer in relation to the Contract (other than for fraud, gross negligence, or Wilful Misconduct), whether under statute, common law (including for negligence or other torts) or in equity, is limited to the higher of the aggregate Purchase Price of all Products delivered by Boxes 24 to the Customer, and the proceeds of insurance received or payable under an insurance policy held by Boxes 24 in respect of such liability.
- 9.3 Boxes 24's liability under the Contract is reduced proportionately to the extent that any act or omission of the Customer, the Customer's Personnel, or any third party who Boxes 24 does not control, causes or contributes to any Loss or Claim.
- 9.4 The remedy of the Customer in relation to any cause of action that the Customer may have against Boxes 24 is, to the maximum extent permitted by law, limited to damages.

10. CUSTOMER CLAIMS

10.1 In the event that the Customer has a potential Claim in relation to the Contract, the Customer must:

- (a) notify Boxes 24 in writing as soon as practicable after identifying the potential Claim and in any event by no later than 12 months after delivery of the relevant Products;
- (b) if requested, provide Boxes 24 with a sample and/or all information required for Boxes 24 to identify the relevant Products and date of manufacture; and
- (c) not dispose of the relevant Products within a 30 day period after the receipt of notice from Boxes 24 under clause 10.1(a), during which time Boxes 24 has the right to inspect the relevant Products.

10.2 If the Customer disposes of the relevant Products within the 30 day period specified in clause 10.1(c), without the consent of Boxes 24 in writing, the Customer is deemed to have waived all Claims in relation to the Products disposed of.

11. INTELLECTUAL PROPERTY

11.1 Boxes 24 retains ownership of all Intellectual Property Rights in relation to the Products, including any improvements, adaptations or modifications of the same. Nothing in the Contract assigns, transfers or otherwise conveys any right, title or interest in such Intellectual Property Rights to the Customer or any other person.

11.2 Ownership of all Intellectual Property Rights created, discovered, developed, derived or that otherwise come into existence in relation to performance of a Contract between the Customer and Boxes 24, or otherwise in relation to the supply of the Products, will immediately vest in Boxes 24.

11.3 The Customer must not (nor permit, allow or cause any third party to) copy, reproduce, reverse engineer or duplicate any Products or other products of Boxes 24. The Customer indemnifies Boxes 24 in relation to any Loss suffered or incurred by Boxes 24 directly or indirectly resulting from a breach of this clause 11.3 by the Customer.

11.4 Boxes 24 grants to the Customer a non-exclusive, non-transferrable/non-assignable, non-sublicensable, revocable, limited licence to use Boxes 24's Intellectual Property Rights comprised in the Products solely for and to the extent required to use and enjoy the benefit of those Products under the Contract.

11.5 Boxes 24 acknowledges that the Customer retains all right, title and interest in and to Intellectual Property Rights of the Customer associated with Customer Specifications provided to Boxes 24 under any Contract. The Customer grants Boxes 24 a perpetual, irrevocable, royalty free licence to use such Intellectual Property Rights for the purpose of making all supplies contemplated by any Contract.

11.6 Boxes 24 does not make any representation or provide any warranty that the Products supplied, or the use of such Products or items made from the Products, either alone or in conjunction with other goods will not infringe any third party Intellectual Property Rights. The Customer will notify Boxes 24 of any Claim involving the Customer in which such infringement is alleged and if Boxes 24

considers itself to be affected it will be entitled to control the defence of such allegation.

11.7 For the purpose of this clause 11, Boxes 24 acts in its own right and as agent for and on behalf of each of its Affiliates, and it may enforce this clause 11 on behalf of and for the benefit of each such Affiliate.

12. FORCE MAJEURE

A party (**Affected Party**) is not liable for any Loss incurred by the other party as a result of a delay or failure to perform any of the Affected Party's obligations under the Contract (other than an obligation to pay money) where such delay or failure is caused by a Force Majeure Event, provided that:

- (a) as soon as reasonably practicable, the Affected Party gives the other party a notice which specifies the Force Majeure Event and the relevant obligations which cannot be performed or are delayed;
- (b) the Affected Party takes all reasonable steps to remedy or mitigate the effects of the Force Majeure Event and resumes performance of its obligations as soon as reasonably practicable;
- (c) the Affected Party must resume performing its obligations as soon as possible after the Force Majeure Event has ceased to have effect.

13. DEFAULT AND TERMINATION

13.1 *Termination for default*

A party may terminate the Contract immediately by giving the other party written notice to that effect if the other party:

- (a) breaches a material term of the Contract and fails to remedy that breach within 10 Business Days of written notice to do so from the terminating party, if such breach is capable of remedy;
- (b) breaches a material term of the Contract and such breach is not capable of being remedied;
- (c) is the Customer and fails to pay an amount when due under the Contract; or
- (d) suffers an Insolvency Event.

13.2 *Default rights*

If any of the events specified in clause 13.1 occur in relation to the Customer, then Boxes 24 may, in addition to any other rights or remedies:

- (a) demand payment of any Outstanding Payments owing to Boxes 24 by the Customer;
- (b) withhold further deliveries of Products; and/or
- (c) re-take possession of any Products supplied to the Customer for which title has not yet passed to the Customer pursuant to clause 5, and for that purpose the Customer agrees that Boxes 24 may enter the premises where the Products are stored free from trespass.

13.3 *Effect of termination*

- (a) Termination of the Contract is without prejudice to any rights or Claims that accrue to a party prior to the date of such termination.

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(b) If the Contract is terminated by Boxes 24 under clause 13.1, then Boxes 24 may, in addition to any other rights or remedies (including those under clause 13.2), Claim from the Customer reasonable compensation for materials purchased and labour expended in complying with an Order up to the date of termination.

13.4 **Costs to remedy breach**

All costs and expenses incurred by Boxes 24 to remedy any breach by the Customer of the Contract or to enforce Boxes 24's rights under the PPS Act or the Contract will be recoverable from the Customer in addition to and without prejudice to Boxes 24's right to damages for breach of the Contract.

14. **GST**

14.1 A reference in this clause 14 to a term defined or used in the GST Law has the meaning given to that term in the GST Law.

14.2 Any amount referred to in the Contract which is relevant in determining a payment to be made by the Customer to Boxes 24 is exclusive of any GST unless stated otherwise.

14.3 The Customer must pay to Boxes 24 the amount equal to the GST liability on any taxable supply by Boxes 24 to the Customer under the Contract, at the same time as the Customer is required to pay the consideration for that taxable supply to Boxes 24 under the Contract.

14.4 The GST liability for any taxable supply is the amount equal to the consideration attributable to the taxable supply made by Boxes 24 to the Customer, multiplied by the rate at which GST is imposed in relation to that taxable supply.

15. **PPS LAW**

15.1 Words and phrases that are defined in the PPS Act have, when used in this clause 15, the meanings given to them under the PPS Act.

15.2 The Contract constitutes a 'security agreement' for the purposes of the PPS Act.

15.3 Possession of Products is transferred to the Customer by Boxes 24 on the basis that Boxes 24 holds a security interest in the Products supplied to the Customer by Boxes 24 and the proceeds of the Products, to the extent that any amounts are owed to Boxes 24 under the Contract.

15.4 The Customer consents to Boxes 24 registering a financing statement on the Personal Property Securities Register in relation to any security interest in Boxes 24's favour under or in relation to the Contract.

15.5 The Customer:

- (a) must provide Boxes 24 with reasonable assistance to register and perfect any security interest arising under or in relation to the Contract;
- (b) undertakes not to amend or seek to amend (including by way of removal), or interfere, including exercise any right to object to, the registration or validity of any such security interest;
- (c) agrees to notify Boxes 24 in writing of any change to the Customer's name and contact details in the Contract within 5 days from the date of such change;

(d) until such time as title in the Products has passed to the Customer in accordance with clause 5.2, must not grant or create any security interest over Products prior to payment of the full Purchase Price of those Products, or otherwise allow a security interest to come into existence which is inconsistent with the rights and interests of Boxes 24 under this clause 15;

(e) agrees to keep all information of the kind mentioned in section 275(1) of the PPS Act confidential and will not authorise the disclosure of such information except in accordance with section 275(7) of the PPS Act;

(f) waives its right under section 157 of the PPS Act to receive notice of any verification statement relating to the registration of any financing statement or any related financing change statement;

(g) agrees that the following provisions of the PPS Act do not apply and the Customer does not have any rights under them: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 121(4); section 125; sections 129(2) and (3); section 132; section 142; and section 143; and

(h) agrees that Boxes 24 is required to give a notice under the PPS Act only if the notice is obligatory and the right to receive such notice cannot be waived.

16. **LIENS**

16.1 Without limiting clause 15 or Boxes 24's other legal rights, Boxes 24 has a lien over all Products for which payment is outstanding (including if dishonoured) and may do any of the following:

- (a) retain the Product for the outstanding amount;
- (b) stop any Products in transit, whether or not delivery has been made or ownership has passed; or
- (c) sell or dispose of the Products and deduct its costs of doing so from any proceeds.

16.2 The Customer agrees that Boxes 24 will have a general lien over any Customer Specifications or tooling supplied to Boxes 24 by the Customer, and in Boxes 24's possession, until all Outstanding Payments are paid in full by the Customer. This right is in addition to any right of lien which Boxes 24 may be entitled to by law.

17. **GENERAL PROVISIONS**

17.1 **Governing law:** The Contract is governed by the laws of the State of Western Australia. The parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in that State. Any dispute or legal proceedings in relation to the Contract must be held in Perth, Western Australia.

17.2 **Variation:** The parties can vary the Contract only if the variation is in writing and signed by each of the parties.

17.3 **Assignment:** A party must obtain the prior written consent of the other party before it transfers, assigns, novates or otherwise disposes of a right or obligation under the Contract. Notwithstanding, Boxes 24 may assign or novate all rights and obligations under the Contract to any of its Affiliates, or to any purchaser of Boxes 24 business, by giving the Customer written

notice to that effect, and provided such Affiliate or purchaser (by deed in favour of the Customer) undertakes to be bound by and comply with Boxes 24's obligations under the Contract.

17.4 **Waiver:** A party's failure, partial failure or delay in exercising a right relating to the Contract is not a waiver of that right.

17.5 **Severability:** If any provision of the Contract is invalid, illegal or unenforceable, that provision must be severed from and ignored in the interpretation of the Contract to the minimum extent necessary and to the intent that the remaining provisions of the Contract remain in full force and effect.

17.6 **Entire Agreement:** The Contract constitutes the entire agreement between the parties and supersedes all previous discussions, undertakings and agreements in relation to the subject matter of the Contract.

17.7 **Confidentiality:** The Customer will not divulge to any person the terms of the Contract or any information provided by Boxes 24 in relation to the Contract without the prior written consent of Boxes 24, except as required by law or for the purposes of obtaining professional legal, financial or taxation advice.

17.8 **Communications:** Each communication (including each notice, consent, approval, request and demand) given by a party to another party in relation to the Contract:

- (a) must be in writing and in the English language;
- (b) must be delivered by hand, sent by prepaid post or sent by email to the recipient party using the contact details of the recipient party specified in the Contract or as otherwise notified by the recipient party to each other party from time to time; and
- (c) is taken to be received by the recipient party:
 - (i) in the case of delivery by hand, upon delivery;
 - (ii) in the case of prepaid post sent to a recipient party in the same country as the sending party, on the date of actual receipt or otherwise the 3rd Business Day after the date of posting;
 - (iii) in the case of prepaid post sent to a recipient party in another country to the sending party, on the date of actual receipt or otherwise the 7th Business Day after the date of posting; and
 - (iv) in the case of email, at the time it is delivered to the recipient party's host server.

17.9 **Receipt:** Notwithstanding clause 17.8(c), if a communication given under clause 17.8 is taken to be received on a day that is not a Business Day or after 5.00pm in the place where the communication is received, it will be taken to be received at 9.00am on the next Business Day.

18. DEFINITIONS

The following definitions apply in the Contract, unless the context requires otherwise:

"Affiliate" in relation to a party, means a corporation or other legal entity that directly or indirectly Controls, is Controlled by, or is under common Control with, that party.

"Boxes 24" means Boxes 24 Pty Ltd (ACN 676 044 161).

"Claim" means an action, suit, proceeding or demand of any kind and any actual or alleged entitlement or right of any kind, whether arising at common law, in equity or under statute.

"Consumer Law" means the *Competition and Consumer Act 2010* (Cth) (including the Australian Consumer Law set out in Schedule 2 of the Act) and similar state and territory legislation (including the *Fair Trading Act 2010* (WA)).

"Contract" means a legally binding contract between Boxes 24 and the Customer for Boxes 24 to supply, and the Customer to purchase, the Products the subject of an Order, on and subject to these Terms.

"Credit Facility" has the meaning given in clause 6.

"Customer" means a person who orders Products from Boxes 24.

"Customer Specifications" has the meaning given in clause 3.2.

"Excluded Loss" means any loss of profit, loss of revenue, loss of product, loss of expected savings, loss of income, rent or holding costs, loss of expected production, opportunity costs, loss of business (including loss or reduction of goodwill or opportunity), damage to reputation, or any other consequential, indirect or special loss, related in any way to the Contract or its subject matter, whether actual, anticipated or otherwise.

"Force Majeure Event" means an event beyond the party's reasonable control which, by exercise of reasonable diligence and precautions, could not have been prevented or reasonably foreseen by the affected party, including any:

- (a) act of God, unusually severe weather (including a cyclone, hurricane, typhoon or similar), earthquake, fire, subsidence, land slide, mud slide, wash-out, explosion, radioactive contamination or natural disaster;
- (b) epidemic, pandemic or other similar health emergency;
- (c) terrorism, insurrection, revolution or civil disorder, act of public enemies, malicious damage, sabotage, vandalism, war (whether declared or undeclared) or a military operation, blockade or riot;
- (d) industrial dispute of any kind, strike, lock-out, ban, limitation or other industrial disturbances;
- (e) any failure, delay or suspension by any third party supplier of the supply in whole or in part of fuel, electricity, equipment, machinery or materials to the affected party provided that the affected party has acted in a timely manner in endeavouring to secure the same (which does not require the affected party to secure the same if the alternative supply is only available to the affected party at a materially increased or additional cost to it);
- (f) accidental or malicious damage;
- (g) breakdown of machinery; or
- (h) adverse application of any law or enforcement actions of any court, regulatory body or governmental agency.

"Government Agency" includes any federal, state, territory or local government, or any ministry, department, court, commission, statutory body, board, agency, instrumentality, political subdivision or similar entity.

STANDARD TERMS OF SUPPLY

Boxes 24 Pty Ltd (ABN 39 676 044 161)

Version: B-0001 – May 2024

ABN: 39 676 044 161

BOXES 24 PTY LTD
Unit 1 & 2
21 Pedlar Circuit
Rockingham
WA, 6168

“**GST**” means goods and services tax levied under the GST Law.

“**GST Law**” has the meaning given to that term in the *A New Tax System (Goods and Services) Tax Act 1999* (Cth).

“**Insolvency Event**” in relation to a party (**Relevant Party**), means any of the following events occurring:

- (a) a receiver, receiver and manager, controller (as that term is defined in the *Corporations Act 2001* (Cth)), administrator, bankruptcy trustee, liquidator, provisional liquidator, or similar officer is appointed to the Relevant Party or any of the Relevant Party’s assets, or an application to court for such appointment is made and not permanently stayed, withdrawn or dismissed within 30 days;
- (b) the Relevant Party enters into, or resolves to enter into, a deed of company arrangement, scheme of arrangement, compromise or composition with any class of creditors, other than for a solvent corporate restructure;
- (c) a resolution is passed or an application to a court is taken or an order is made for the winding up or dissolution of the Relevant Party;
- (d) the Relevant Party ceases to (or is unable to) pay its creditors (or any class of them) in the ordinary course of business, or announces its intention not to pay its creditors;
- (e) the Relevant Party is (or states that it is) insolvent (or is deemed to be insolvent), commits an act of bankruptcy or is declared bankrupt under applicable bankruptcy or insolvency law; or
- (f) anything having a substantially similar effect to any of the events specified in this definition above happens under the law of any applicable jurisdiction.

“**Intellectual Property Rights**” means all rights and interests throughout the world vesting or otherwise in relation to industrial or intellectual property protectable under law (including in relation to trade marks, designs, patents, circuit layouts, copyright, confidential information, and all other intellectual property rights as defined in Article 2 of the convention establishing the World Intellectual Property Organisation of July 1967), whether registered, unregistered or registrable, and whether now existing or that come into existence in the future.

“**Loss**” means any loss, liability, damages (of any nature, including aggravated and punitive damages), compensation, cost (including all legal costs on a full indemnity basis), charge or expense, whether direct or indirect, present or future, actual, contingent or prospective, and whether known or unknown, howsoever arising.

“**Mandatory Rights**” means any mandatory consumer rights and remedies under the Consumer Law.

“**Order**” means an order, request or other instructions from the Customer to Boxed 24 for the supply of Products.

“**Outstanding Payments**” means all amounts owed by the Customer to Boxes 24 at the relevant time, whether arising under the Contract or otherwise.

“**Personnel**” in relation to a party, means any of that party’s employees, officers, directors, contractors, agents and its

representatives involved directly or indirectly in the matters related to the Contract.

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

“**Products**” means any product or goods supplied or agreed to be supplied by Boxes 24 to the Customer, the subject of an Order.

“**Purchase Price**” means the amount quoted by Boxes 24 for the supply of Products, as varied in accordance with these Conditions, which is exclusive of GST unless otherwise stated.

“**Quote**” means a quotation or proposal by Boxes 24 for the supply of Products.

“**Terms**” means these Standard Terms of Supply for Boxes 24.

“**Wilful Misconduct**” means breach of the Contract by a party which was known by the party at the time of the breach to be a breach in the circumstances, but intentionally done or persisted with by the party in reckless indifference as to the likely consequences of the breach.

19. INTERPRETATION

19.1 This clause 19 applies to the interpretation of the Contract.

19.2 If a word or phrase is defined, then its other grammatical forms have a corresponding meaning.

19.3 The singular includes the plural and vice versa.

19.4 A reference to:

- (a) a gender includes any gender;
- (b) a living thing includes a reference to an inanimate thing and vice versa;
- (c) a clause, schedule or annexure is a reference to a clause, schedule or annexure to the Contract;
- (d) a document includes a variation or replacement of that document;
- (e) a statute includes its subordinate legislation and a modification, replacement or re-enactment of either;
- (f) the Contract includes a schedule or annexure to the Contract;
- (g) “supply” or “supplied” in relation to a Product includes sale, rental/lease/hiring or other supply of that Product;
- (h) “deliver” or “delivery” of a Product includes making Product available for collection;
- (i) “use”, “exploit”, “exercise” or similar words in relation to Intellectual Property Rights includes the use, exploitation or exercise of any rights, privileges, powers and/or benefits relating to or granted under those Intellectual Property Rights, whether under statute or otherwise;
- (j) person includes a reference to:
 - (i) an individual, a body corporate, a trust, a partnership, a joint venture an unincorporated body or other entity, whether or not it is a separate legal entity; and
 - (ii) the person’s personal representatives, successors and assigns;
- (k) a thing, including a right, is a reference to either the whole thing or a part of the thing;
- (l) Australia is to the Commonwealth of Australia, including any state or territory of the same;
- (m) currency is to Australian dollars unless specified otherwise;

STANDARD TERMS OF SUPPLY

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- (n) time is to the time in Perth, Western Australia unless specified otherwise;
- (o) a day is a reference to the period which starts at midnight and ends 24 hours later;
- (p) a right includes a benefit, remedy, discretion or power, and vice versa; and
- (q) an obligation includes a duty, and vice versa.

- 19.5 The words “include”, “includes”, “including” and similar words are not words of limitation and do not restrict the interpretation of a word or phrase in the Contract.
- 19.6 Part performance of an obligation does not constitute performance of an obligation.
- 19.7 A term, condition or warranty in the Contract in favour of or on the part of two or more people benefits or binds them jointly and severally.
- 19.8 If the date on which a thing must be done is not a Business Day, then that thing must be done on the next Business Day.
- 19.9 If a period of time runs from a given date, act or event, then the time is calculated exclusive of the date, act or event.
- 19.10 A clause is not to be construed against a party on the ground that the party is responsible for the preparation of the Contract or that clause.
- 19.11 The phrase “in relation to” has the widest possible import and encompasses the phrases “in relation to”, “in connection with”, “in respect of”, “arising out of”, “caused by” and “resulting from”.
- 19.12 A heading in the Contract is for convenience only and does not affect the interpretation of the Contract.