Rushmore Distributors Pty Limited

trading as

Gilbert Lodge Australia

ABN 19 663 882 817

("**Company**", "**we**", "**us**", "**our**")

STANDARD TERMS OF SALE ("Terms")

Effective 2 October 2026

These Terms apply whenever we supply Goods to a Customer ("**you**", "**your**").

1. Definitions

In these Terms:

"**Background IP**" means all Intellectual Property Rights owned or used by a party prior to the date of this Contract or which are developed or acquired by a party independently of this Contract;

"**Consequential Loss**" means any loss which is indirect or consequential, including loss of revenue, loss of income, loss of business, loss of profits, loss of goodwill or credit, loss of business reputation, loss of data, loss of interest, damage to credit rating, or loss or denial of opportunity;

"**Consumer**" has the meaning given to it under the Australian Consumer Law, contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth);

"**Contract**" means the contract for the purchase of Goods comprising these Terms, each Purchase Order, the Special Conditions and any Credit Application;

"**Created IP**" has the meaning given in clause 14.1;

"**Credit Application**" means a credit application submitted by you, in a form approved by us, that we accept;

"**Customer**" means any person or entity that purchases Goods under this Contract;

"**Defect**" or "**Defective**" means a defect or flaw in the Goods which prevents the Goods from being used for the purposes intended for such Goods, but does not include:

(a) anything which we have disclosed as a feature or limitation of the Goods before the date of purchase;

(b) any defect or flaw that is trivial or insubstantial; or

(c) any damage caused by the Customer after the Goods were delivered that are not related to their state or condition at the time of supply;

"**Force Majeure**" means an act of God, flood, fire, war; revolution or any other unlawful act against public order or authority; an industrial dispute including strike or other labour disturbances; a governmental restraint; a shortage or unavailability of raw materials, production capacity or transportation; and any other event not within our reasonable control;

"**Goods**" means all products and services we agree to supply to you from time to time under this Contract including any Special Order Goods;

"**GST**" means any goods and services tax and any replacement or similar tax;

"**Insolvency Event**" means the happening of any of these events:

(a) a party suspends payment of its debts generally, is or becomes unable to pay its debts within the meaning of the *Corporations Act 2001* (Cth);

(b) a party enters into, or resolves to enter into, any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;

(c) a receiver, receiver and manager, liquidator, provisional liquidator, administrator, trustee or similar official is appointed over any of the assets or undertakings of a party, an application or order is made for the winding up or dissolution of a party, or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of a party, except for the purpose of an amalgamation or reconstruction which has the other party's prior consent;

(d) a party commits an act of bankruptcy; or

(e) party ceases, or threatens to cease, to carry on a business;

"**Intellectual Property Rights**" means any copyright (including future copyrights), patent, trade mark (whether registered or not), registered design or other design right, and any right to apply for the grant or registration of the same and any rights in respect of an invention, discovery, novel design, trade secret, confidential information, know-how, concept, idea, information, data or formula;

"**Losses**" means any losses, damages, liabilities, claims, costs and expenses (including reasonable legal costs);

"Manufacturer Warranty Period" means the warranty period for the Good provided by the manufacturer of the Good, or in relation to services, the warranty period provided by the persons undertaking the service;

"**Non-Excludable Rights**" means any applicable law that cannot be excluded, restricted or modified by agreement of the parties;

"**Purchase Order**" means any order for Goods placed by you with us, in whatever form, and accepted by us;

"**PPSA**" means the *Personal Property Securities Act 2009* (Cth);

"**Special Conditions**" means the special conditions, if any, set out in writing and agreed to by you and us;

"**Special Order Goods**" means any non-stocked Goods that we must order in, or any Goods that we must have custom-made, to fulfil your Purchase Order; and

"**Territory**" means Australia.

2. Contract

2.1 Unless we otherwise agree in writing, this Contract is the only contract which applies to the Goods and services we supply.

2.2 If there is any inconsistency between the documents forming this Contract, the inconsistency will be resolved by applying the following order of precedence: (a) the Special Conditions; (b) these Terms; (c) the Credit Application; and (d) the Purchase Orders.

2.3 We may alter these Terms from time to time by publishing an updated version of the Terms on our website. The updated Terms will be made available on the relevant part of our website dealing with our terms and conditions of sale. The updated Terms will apply to orders placed after the date of publication. It is your responsibility to check the current Terms that apply on our website before placing an order. For the avoidance of doubt, this clause does not apply where our supply of Goods or services to you is already governed by an existing written contract between you and us. Where such written contract incorporates these Terms, the version of these Terms that was applicable on our website as at the date of that contract will continue to apply to such contract.

3. Purchase Orders

3.1 We have the sole discretion to accept or reject an order, or any variation, modification or cancellation to an order that you request. Any order not rejected by us becomes a "**Purchase Order**" under this Contract.

3.2 If we accept your request to cancel a Purchase Order, you must reimburse us for our reasonable direct costs arising from the cancellation (including for any Goods ordered by us from our suppliers relating to that Purchase Order which cannot be returned).

3.3 We may cancel a Purchase Order at any time by giving you written notice. If we cancel a Purchase Order, we will reimburse you for your reasonable direct costs arising from the cancellation (as substantiated by you in writing).

3.4 Where you provide information to us that we require to supply the Goods to you (such as measurements and quantities), you warrant that such information is accurate and that our use of that information, including incorporation into the Goods, will not infringe the Intellectual Property Rights of any third party. Subject to any Non-Excludable Rights, we accept no responsibility for any loss, damage or claim resulting from your failure to comply with this clause 3.4, except to the extent caused by our breach of this Contract or negligent or wilful act or omission.

4. Warranties

4.1 We warrant that:

(a) our representatives will exercise due skill and care in performing our obligations under this Contract; and

(b) subject to your compliance with clause 3.4, the Goods will conform with this Contract and will comply with all applicable standards within the Territory.

4.2 You acknowledge that, other than as set out in clause 4.1 or in relation to any Non-Excludable Rights that you may have:

(a) variations may occur in the colour and texture of materials used in the manufacture of the Goods and we give no warranty or guarantee that the Goods will correspond in appearance with any sample, display or goods previously sold to you;

(b) neither us, nor any person purporting to act on our behalf, has made any representation which is not expressly set out in writing, regarding the quality, condition, colour, merchantability, or fitness of the Goods for any particular purpose; and

(c) you alone are responsible for determining whether the Goods are for the purpose for which you intend to use them.

5. Price

5.1 All prices are in Australian dollars. Unless we expressly state otherwise, the prices do not include insurance, delivery charges, credit card or other payment surcharges (where permitted by law and the terms of the relevant payment method), GST, or any other sales, value-added or similar taxes.

5.2 The price of the Goods will be the price quoted by us in a quotation, or in the absence of a quotation, the price according to our price list at the date that we accept your order.

5.3 We will be bound by any quotation that we issue you for the period set out in the quotation or, if no period is stated, for 30 days from the date of the quotation. We may revise or revoke a quotation during this period if:

(a) you request an update to the Goods or the delivery address;

(b) the quotation relates to Goods subject to a base metal fluctuating price (e.g. copper), in which case the quotation will be revised to account for the price of the base metal at the time an order is placed;

(c) the price of Goods, or freight and delivery costs in relation to those Goods, increases during the period; or

(d) we and you agree on a new quotation price to apply to the Goods.

5.4 If, in relation to any Special Order Goods, there is a change in the costs:

(a) payable by us to manufacture the Special Order Goods; or

(b) payable by us to supply the Special Order Goods to you, including any increase in prices charged by a third party manufacturer,

that arises between the date we accept your order and the proposed date of collection or delivery, we may increase the price payable under the Purchase Order to reflect such additional direct costs and will notify you of such price increase as soon as reasonably practicable.

5.5 If, upon receipt of a price increase notice under clause 5.4, you do not wish to proceed with the Purchase Order, you may cancel the Purchase Order, provided that you pay us the value of any reasonable direct costs we have incurred up to the date of cancellation to fulfil your Purchase Order for Special Order Goods which we cannot reasonably mitigate (e.g. by re-directing stock to another order). You acknowledge and agree that this clause 5.5 is required due to the nature of Special Order Goods, which will in most cases be specifically manufactured for your requirements and will therefore not be able to be re-directed to another order.

6. Payment

6.1 You must pay the price for the Goods by the due date and using the method stated in our invoice, monthly statement or in the Credit Application. If no time is stated in these documents, then you must pay the price when you collect, or we deliver, the Goods. We may supply the Goods in separate instalments. Each separate instalment will be invoiced and must be paid in accordance with this clause 6.1. We may refuse to supply Goods to you in future if you do not pay us all amounts that you owe us on or before the date that such amounts are due. We may require you to pay a deposit for any Special Order Goods, which must be paid when we accept your order.

6.2 Without limiting any of our other rights or remedies, if you fail to pay any amounts by the due date for payment, then you must pay us interest on the unpaid amount at 2% per annum above the most recent prime rate, indicator rate, or reference rate (however described) for business overdrafts published by the ANZ bank, and such interest will accrue from the date payment was due to the date payment is made, will be calculated daily and capitalised monthly, and must be paid by you on demand.

6.3 Without limiting any rights or remedies we may have, if you:

(a) default on any payment, and fail to remedy such default within 7 business days after we give you written notice of the default;

(b) breach any material term of this Contract (other than a payment term), which can be remedied, but is not remedied within 7 days after we give you written notice of the breach;

(c) breach any material term of this Contract which is incapable of remedy; or

(d) suffer an Insolvency Event,

then:

(e) we may, at our option, suspend or cancel any Purchase Order or terminate the Contract without notice to you and without prejudice to any other action or remedy which we may otherwise have under this Contract;

(f) all amounts you owe to us, whether due at that time or not, will become immediately due and payable.

6.4 If we take steps to recover any amount you owe to us due to your payment failure, you will be responsible for all reasonable loss that we incur in recovering the amount owing.

7. Delivery

7.1 Unless otherwise specified in a Purchase Order, you must collect the Goods from the address set out in the Purchase Order within 14 days after we notify you that the Goods are ready for collection ("**Collection Notice**").

7.2 We will take all reasonable steps to have the Goods ready for collection or delivery on the date agreed between you and us as the delivery date, or in the absence of any date, within a reasonable time. However, time is not of the essence under this Contract and, subject to any Non-Excludable Rights, we are not liable for any failure to have the Goods ready for collection or delivered promptly or at all, other than to refund the price paid by you for the Goods that are not delivered at all.

7.3 Delivery of the Goods to your third party nominee is deemed to be delivery to you for the purposes of these Terms.

7.4 If you do not collect or accept delivery of the Goods within 14 days after the date of the Collection Notice, and provided that we have made reasonable attempts to contact you to arrange for collection or delivery, you must reimburse us for all reasonable direct costs we incur in storing the Goods, which you must pay before collecting or taking delivery of the Goods.

7.5 If you have not collected or accepted delivery of the Goods within 3 months after the date of the Collection Notice ("**Collection Period**"), we may sell or dispose of the Goods in any manner we deem appropriate, provided that we have first made reasonable attempts to contact you using your nominated contact details during the Collection Period, and have not otherwise caused you to be unable to collect or accept delivery of the Goods.

8. Shortages, damaged Goods and Defects

8.1 You must, as soon as possible after delivery, check the quantity of the Goods delivered against the quantity due to be delivered. Subject to any Non-Excludable Rights, we are not responsible for making good any shortage unless you give us notice of the shortage within 5 days after delivery.

8.2 You must, as soon as possible after delivery, check whether the Goods are Defective when delivered. You must advise us of any Defects within 14 days after delivery. If you give us notice under this clause 8.2, you must:

(a) preserve the Goods in the state in which they were delivered for 14 days after giving notice; and

(b) during that period, allow us to access your premises to inspect the Goods; or

(c) at our request, return the Goods, within 14 days after the delivery date, in the condition in which they were delivered and with all packaging material in as new condition as is reasonably possible in the circumstances. Where we make such request, we will be responsible for the costs of return, unless we reasonably determine that the returned Goods are not Defective, in which case you must reimburse us for the return costs.

8.3 The process set out in clause 8.2 does not apply to Defects that are not obvious or are not able to be detected by a visual inspection of the Goods. For Goods in that category, you must advise us of any Defects within the Manufacturer Warranty Period which commences from the date that you receive the Goods or the date that the Goods are delivered to you.

8.4 Subject to these Terms and any Non-Excludable Rights, we will not be liable to you for any Defective Goods unless you notify us with full details and a description within the relevant period under clause 8.2 or 8.3, otherwise you are deemed to have accepted the Goods.

9. Remedies for Defective Goods

9.1 If we determine acting reasonably that the Goods are Defective Goods, subject to these Terms and any Non-Excludable Rights, we may, at our option, replace the Goods or refund the price of the Goods.

9.2 Subject to any Non-Excludable Rights, we will not offer a return for any Goods which are:

(a) only considered Defective Goods due to the Goods being damaged during the period after delivery in which you had risk in the Goods;

(b) have been specifically produced, imported or acquired to fulfil this Contract; or

(c) are no longer stocked by us.

9.3 If you are a Consumer, the following text applies to you:

Our Goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.

10. Returns

10.1 Subject to any Non-Excludable Rights, all returns for Defective Goods will be dealt with in accordance with clauses 8 and 9, and no refund or exchange will be provided for any change of mind or an error in ordering the Goods, except where we consent to a cancellation under clause 3.

11. Title and risk

11.1 Where we deliver the Goods to your delivery location, risk in the Goods passes to you upon delivery to the delivery location. In all other circumstances, risk in the Goods passes to you on collection of the Goods at our premises.

11.2 Title in and to the Goods passes to you on full payment in cleared funds for all Goods. Until we receive full payment of cleared funds for all Goods supplied by us to you, as well as all other amounts owing to us by you for the Goods under any other contract:

(a) you hold the Goods as bailee for us and you must not sell the Goods except in the ordinary course of your business for market value;

(b) any proceeds received in relation to the sale of the Goods must be held in trust by you for us until the Goods have been paid for in full; and

(c) in addition to any rights we may have under Chapter 4 of the PPSA, if you commit a breach or default under clause 6.3, we may demand the return of the Goods and shall be entitled without notice to you and without liability to you, to enter any premises where we suspect the Goods may be located in order to search for and remove the Goods without committing a trespass, even though they may be attached or annexed to other goods or land that is not our property, and for this purpose you irrevocably licence us to enter such premises, undertake that you will procure any necessary authority to enter from any relevant person and also indemnify us from and against any loss that we suffer or incur as a result of exercising our rights under this clause, except to the extent that such loss is caused by our negligence or breach of this Contract.

11.3 Subject to clause 11.4

(a) as security for the performance of your obligations under this Contract, you hereby:

(i) grant us a security interest over all present and after-acquired property; and

(ii) charge by way of mortgage all of your legal and equitable interests held in all of your real property;

(b) you agree:

(i) that we have a right to register caveats over your interests in your real property but acknowledge that we will only do so, if in our opinion, we believe that it is a reasonable step to take to protect our legitimate business interest and that it is not otherwise unreasonable or disproportionate in the circumstances;

(ii) to execute any documents and do all things reasonably required by us to grant a registerable mortgage security over any of your real property;

(iii) to do anything else reasonably required by us to enable us to register our security interests, with the priority that we require and to maintain any registrations;

(iv) that in the event you fail to deliver any documents reasonably requested by us, you hereby appoint us to be your lawful attorney for the purposes of executing and registering such documents;

(v) to waive any right to receive notices from us under the PPSA unless the notice is required by the PPSA and that requirement cannot be excluded; and

(vi) not to, without prior written notice to us, change your corporate or trading name or amend any registration documentation, or act in any manner, which would adversely impact our registered security interests.

11.4 Clause 11.3 does not apply to Goods which the Customer has paid for upfront and in full.

12. GST

Despite any other clause in this Contract, to the extent that any supply made under or in connection with this Contract is a taxable supply (as defined by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)), you must pay to us, in addition to the consideration provided for under this Contract or that supply (unless it expressly includes GST) an amount (**additional amount**) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. You must pay the additional amount to us at the same time as the consideration to which it is referable. You are responsible for paying any other duties, taxes or charges, including any stamp duty (if applicable), in relation to the Goods.

13. Limitation of liability

13.1 Subject to any Non-Excludable Rights:

(a) each party excludes all liability to the other for any Consequential Loss;

(b) all conditions, implied terms and warranties, whether statutory or otherwise, are excluded in relation to the Goods; and

(c) Our liability for any loss, including for breaches of Non-Excludable Rights, is limited to:

(i) in the case of Goods:

(A) the replacement of the Goods or the supply of equivalent goods;

(B) the payment of the cost of replacing the Goods or of acquiring equivalent goods; and

(ii) in the case of services:

(A) the supplying of the services again; or

(B) the payment of the cost of having the services supplied again; and

(d) each party's liability for any loss arising under this Contract is limited to the total value of the Goods and where applicable, services, supplied under this Contract.

14. Intellectual Property Rights

14.1 You own any Intellectual Property Rights you develop (either solely or with us) in relation to this Contract ("**Created IP**"). Subject to full payment of all amounts owing, we assign to you all right, title and interest in the Created IP.

14.2 You remain the owner or licensee (as the case may be) of your Background IP. You grant us a non-exclusive, royalty-free licence to use your Background IP, and the Created IP, for the purposes of, or in connection with, supplying you the Goods.

14.3 We remain the owner or licensee (as the case may be) of our Background IP. We grant you a non-exclusive, royalty-free, non-transferable licence to use our Background IP to the extent necessary for your use and enjoyment of the Goods.

15. Warranty and indemnity

15.1 You warrant that our exercise of the licence under clause 14.2 will not breach the Intellectual Property Rights of any third party. You acknowledge that we may manufacture Goods, tooling or components based on your designs, specifications, samples, instructions or requirements and that we are entitled to rely on your right and authority to provide and use such materials and information, and we have no obligation to investigate, verify or determine the ownership, validity, enforceability or infringement of any such Intellectual Property Rights.

15.2 You indemnify us from and against all Losses arising from third party claims that your designs, specifications, samples, instructions or requirements infringes the Intellectual Property Rights or other rights of that third party, or otherwise arising from or in connection with:

(a) a breach by you of this Contract; or

(b) any negligent act or omission or wilful misconduct by you in connection with this Contract.

15.3 Your liability under this clause 15 will be reduced proportionately to the extent that we have caused or contributed to the Losses.

15.4 The indemnity in this clause 15 does not apply to the extent that a claim arises solely from our Background IP or from a design independently created by us without reliance on your designs, specifications, samples, instructions or requirements.

16. Force majeure

16.1 Neither party is liable for any failure or delay in performing any of its obligations under this Contract because of a Force Majeure. If this occurs, either party may suspend performance of its obligations under this Contract while the Force Majeure continues or may, after 30 days of a continuing Force Majeure, without liability, terminate any affected Purchase Order or this Contract immediately by giving the other written notice.

17. Privacy

17.1 Each party warrants that it will at all times comply with all applicable privacy laws within the Territory.

17.2 You consent to us obtaining from a credit-reporting agency or credit reference agency a credit report containing personal credit information about you in relation to this Contract.

17.3 You agree that we may exchange information about you with any credit provider or credit agency for the following purposes:

(a) to assess a Credit Application;

(b) to notify other credit providers of your default;

(c) to exchange information with other credit providers as to the status of your credit facility, where you are in default with other credit providers; and

(d) to assess your creditworthiness.

18. General

18.1 If any provision of this Contract or its application to any person or circumstance is or becomes invalid, illegal or unenforceable the provision shall, so far as possible, be read down to such extent as may be necessary to ensure that it is not invalid, illegal or unenforceable. If any provision or part of it cannot be so read down the provision or part of it shall be deemed to be void and severable and the remaining provisions of this Contract shall not in any way be affected or impaired.

18.2 Where there is more than one Customer, or where the Customer comprises more than one person, the Contract binds each Customer, or each person comprising the Customer, jointly and severally.

18.3 A reference to legislation includes any amendment to that legislation, any consolidation or replacement of it, and any subordinate legislation made under it.

18.4 In these Terms, the words 'include', 'including', 'for example', 'such as' or any form of those words or similar expressions do not limit what else is included and must be construed as if they are followed by the words 'without limitation' unless there is express wording to the contrary.

18.5 Neither party may advertise or publish that it has a contract with the other or refer to the other party in any advertising and/or merchandising material without first obtaining the prior written consent of that party.

18.6 A waiver of any right arising under this Contract must be in writing and signed by the party granting the waiver. Any variation of this Contract must be in writing and signed by the parties.

18.7 Neither party may assign its rights under this Contract without the other party’s prior written consent.

18.8 All amounts payable by you under this Contract must be made without deduction or equitable or other set off, unless otherwise agreed by us on a case-by-case basis.

18.9 This Contract is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.