

KENNA INTERNATIONAL CORPORATION TERMS AND CONDITIONS OF SALE

1. Application of these Terms

- (a) These Terms apply to the sale of Products by Kenna to the Customer and any Purchase Order submitted by a Customer to Kenna is deemed to be on the terms and conditions set out in these Terms.
- (b) If the Customer does not agree to the Terms, it must not submit a Purchase Order to Kenna.
- (c) The Terms apply to the exclusion of any other terms and conditions of the Customer in relation to the supply of any Products by Kenna.
- (d) The Customer agrees to be bound by these Terms in all dealings between the parties, including where credit is extended by Kenna.

2. Supply of Products

2.1 Description of Products

- (a) The description of any Products supplied by Kenna to the Customer under this Agreement is provided for information and description purposes only.
- (b) The Customer acknowledges the standard specifications provided at any time for any Products supplied by Kenna are subject to reasonable tolerances.
- (c) The Customer is solely responsible for ensuring any Ordered Products meet the requirements and specifications of the Customer and are suitable for the Customer's intended use of the relevant Products. Kenna makes no representations or warranties to the Customer in this regard.

2.2 Ordering procedure

- (a) The Customer must order the Products from Kenna by submitting a signed Purchase Order to Kenna (via facsimile, email or any other form agreed to by Kenna from time to time).
- (b) Once placed, a Purchase Order cannot be cancelled, or delivery deferred, without Kenna's consent.

2.3 Acceptance by Kenna

- (a) Kenna is not bound by a Purchase Order unless and until it accepts the Purchase Order by notifying the Customer of that acceptance.
- (b) If within [2] Business Hours of Kenna providing the Customer with an Acceptance Notice, the Customer does not advise Kenna of any error or deficiency in the Acceptance Notice, the terms set out in the Acceptance Notice will be deemed to be binding on the parties and Kenna will commence performance under the Purchase Order.
- (c) To the fullest extent permitted by Law, Kenna is not obliged to accept any Purchase Order.
- (d) Once Kenna accepts a Purchase Order, the parties must comply with that Purchase Order in accordance with these Terms.

2.4 Inconsistency

If there is any inconsistency between the terms set out in a Purchase Order accepted by Kenna and these Terms, these Terms prevail to the extent of the inconsistency.

3. Delivery procedure

3.1 Delivery by Kenna

- (a) If required to do so under an agreed Purchase Order, Kenna must deliver the Ordered Products to the address specified in the relevant Purchase Order (**Delivery Address**), at the Customer's cost (in addition to the Price for the relevant Products).
- (b) If Kenna is responsible for delivery in respect of a Purchase Order, Kenna must use reasonable endeavours to effect delivery under clause 3.1(a) on the date or within the period specified in that Purchase Order, but in no circumstances, will Kenna be liable for any loss or damage resulting from a delay in delivery.
- (c) The Customer is always responsible for (and must pay any and all costs associated with) arranging the unloading of the Ordered Products at the Delivery Address. For the avoidance of doubt, if for any reason, the Customer is not available to unload the Ordered Products on the date of any delivery, then the Customer must pay to Kenna any costs incurred (including storage and handling charges) by Kenna as a result of the delayed delivery.
- (d) Kenna may deliver Ordered Products in instalments in its absolute discretion, provided it provides prior notice of the proposed instalments to the Customer.

3.2 Carrier's consignment note and confirmation

The Customer must ensure that its duly authorised representative signs Kenna's copy of the carrier's consignment note accompanying each delivery of Ordered Products, as confirmation that the Ordered Products specified in it have been delivered in good order and condition.

4. Price

The price payable by the Customer to Kenna for each Ordered Product will be the price specified by Kenna for that Product at the time of delivery (plus any and all freight, packaging and delivery costs notified by Kenna to the Customer).

5. Payment

5.1 Invoicing

For each delivery of Ordered Products, Kenna must provide an invoice to the Customer for the amount payable under these Terms for those Ordered Products (**Invoice**).

5.2 Terms of payment – Non-credit approved customers

If a Customer has not signed a valid credit application form with Kenna and submits a Purchase Order for Products, then the Customer must:

- (a) pay a deposit (of an amount nominated by Kenna) to Kenna prior to Kenna commencing performance of that Purchase Order; and

- (b) pay Kenna the balance owing under the relevant Purchase Order on receipt of the Invoice relating to those Ordered Products, but in any event, prior to delivery.

5.3 Terms of payment - Credit approved customers

If Kenna makes a delivery of Ordered Products to a Customer that has entered into a valid credit application with Kenna, then to the extent that the sum of all amounts (including the amount of the Invoice relating to those Ordered Products) owing by the Customer to Kenna at that time (whether under these Terms or otherwise and whether or not actually payable at that time):

- (a) does not exceed the Approved Credit Limit of that Customer, the Customer must pay Kenna the amount of that Invoice on or before the last Business Day of the month following the month in which the Invoice was issued by Kenna; or
- (b) does exceed the Approved Credit Limit of that Customer, the Customer must pay Kenna the amount of the excess on or before delivery of the relevant Ordered Products (and must pay any amounts under the Approved Credit Limit, in accordance with clause 5.3(a)).

5.4 Terms of payment - general

Each payment under this clause 5 must be made without set-off or counterclaim and otherwise in the manner specified in the relevant Invoice.

5.5 Default

If the Customer fails to pay any amount owing to Kenna on or before the due date of the relevant Invoice in accordance with these Terms, then Kenna may do one or both of the following:

- (a) suspend performance of its obligations under these Terms until all amounts owing by the Customer to Kenna (whether under these Terms or otherwise and whether or not actually payable at that time) are paid in full; and
- (b) charge interest on the amount outstanding at the Prescribed Rate accruing daily from and including the due date for payment until the date of payment in full.

5.6 Other rights and obligations not affected

The exercise by Kenna of any of its rights under clause 5.5 does not affect:

- (a) the Customer's obligations; or
- (b) any other rights or remedies Kenna may have in relation to any failure by the Customer to pay an amount due (including a right to terminate these Terms),

whether under these Terms or otherwise.

6. GST

6.1 Definitions

In this clause 6:

- (a) the expressions **Consideration**, **Input Tax Credit**, **Recipient**, **Supply**, **Tax Invoice** and **Taxable Supply** have the meanings given to those expressions in the GST Act; and
- (b) **Supplier** means any party treated by the GST Act as making a Supply under these Terms.

6.2 Consideration is GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in accordance with these Terms are exclusive of GST.

6.3 Payment of GST

- (a) If GST is imposed on any Supply made under or in accordance with these Terms, the Recipient of the Taxable Supply must pay to the Supplier an additional amount equal to the GST payable on or for the Taxable Supply, subject to the Recipient receiving a valid Tax Invoice in respect of the Supply.
- (b) Payment of the additional amount must be made at the same time and in the same way as payment for the Taxable Supply is required to be made in accordance with these Terms.

7. Consequences of Kenna electing not to accept further Purchase Orders from the Customer

7.1 Cessation of Supply and Events of Default

- (a) Kenna may, for any reason whatsoever, determine that it wishes to stop supplying Products to the Customer.
- (b) If an Event of Default, other than an Insolvency Event, occurs in relation to the Customer, Kenna may give a notice (Default Notice) to the Customer specifying the Event of Default and requiring the Customer to remedy the default within 5 Business Days after the Default Notice is given.
- (c) If the Customer:
 - (i) receives a Default Notice and does not comply with the notice within the relevant period referred to in clause 7.1(b);
 - (ii) receives a Default Notice on 2 or more occasions in any period of 6 months; or
 - (iii) is the subject of an Insolvency Event,then Kenna, without limiting its other rights and remedies, may terminate these Terms (and any Order) with immediate effect.
- (d) On the termination of these Terms or any Purchase Order, the Customer must pay Kenna the cost of:
 - (i) all Ordered Products; and
 - (ii) any goods or raw materials that have been purchased by Kenna,in order to fulfil the relevant Purchase Order.
- (e) In the event of a Cessation of Supply, Kenna may still enforce any right or claim that arises on, or has arisen before, the Cessation of Supply.

7.2 Obligations surviving Cessation of Supply

Despite any other provision of these Terms, on Cessation of Supply:

- (a) all Purchase Orders will be automatically cancelled, except to the extent otherwise directed in writing by Kenna; and
- (b) the Customer must pay Kenna all amounts owing by the Customer to Kenna, when due (except where the Cessation of Supply arose due to the default of the Customer in which case the Customer must pay all amounts owing by the Customer to Kenna within 5 Business Days),

and otherwise this clause 7, clauses 4, 5, 7, 6, 8, 9, 10.2, 10.3, 11, 12, 14, 15 and 18 and the terms of the Application and Guarantee (if applicable) will continue to apply after the Cessation of Supply.

8. Risk

The risk of loss or damage to the Products is transferred from Kenna to the Customer at the time of dispatch of the Products by Kenna. The Customer acknowledges that Kenna will not be responsible for arranging (or paying for) insurance of any Ordered Products.

9. Title

9.1 Retention of title

Title to all Products supplied by Kenna to the Customer remains with Kenna and does not pass to the Customer until the price for those Products (**Amount Outstanding**) is paid to and received in full by Kenna in cleared funds.

9.2 Customer's obligations

Until title to Products supplied by Kenna to the Customer passes to the Customer in accordance with clause 9.1, the Customer must:

- (a) store the Products separately from the Customer's own goods and those of third parties, to enable them to be readily identified as Kenna's property;
- (b) hold the Products as the bailee and fiduciary agent of Kenna;
- (c) not supply or sell the Products to any person, other than with Kenna's prior written consent or in the ordinary and usual course of the Customer's business, it being acknowledged that any such supply or sale by the Customer will be as the bailee and fiduciary agent of Kenna;
- (d) when requested by Kenna, allow Kenna to enter the premises where the Products are stored to inspect the Products and provide to Kenna the consent of any person whose consent is required for that entry;
- (e) keep records that relate to the Products separately identifiable and readily distinguishable from those that relate to any other goods in its possession;
- (f) not allow any person to have or acquire any encumbrance or security interest in the Products; and
- (g) keep the Products insured against theft, damage and destruction (and if the Customer fails to insure the Products, Kenna may do so and the Customer must reimburse Kenna for the cost of insurance).

9.3 Sale of the Products

If the Customer sells or otherwise disposes of the Products supplied by Kenna before title to them has passed from Kenna to the Customer:

- (a) that part of the proceeds of any sale or dealing as is equal to the Amount Outstanding or if the proceeds of sale or dealing are less than the Amount Outstanding, the whole of the proceeds of sale or dealing (in either case, **Kenna's Entitlement**) must be held by the Customer in a separate identifiable account on trust for Kenna and must not be mixed with any other moneys of the Customer; and
- (b) the Customer must account to Kenna for Kenna's Entitlement, until all liability of the Customer to Kenna has been discharged.

9.4 Customer's rights limited

The Customer has no right to sell the Products or deal with the Products if:

- (a) an Insolvency Event occurs in relation to the Customer any person who has guaranteed the obligations of the Customer; or
- (b) there is a Cessation of Supply for any reason.

9.5 Failure to return Products

If the Customer loses its right to sell or deal with the Products under clause 9.4, then the Customer must return the Products to Kenna on written demand (and upon such return, the Customer is no longer required to pay for those Products). If the Customer does not return the Products to Kenna within 24 hours after receipt of the demand, then without limiting any other rights or remedies Kenna may have:

- (a) Kenna may, as agent of the Customer, enter the relevant Store or any other premises where the Products are located and do all things necessary to retake possession of the Products, without liability for trespass or any resulting damage;
- (b) Kenna may keep or resell any of the Products repossessed;
- (c) the Customer is liable for all costs associated with the exercise by Kenna of its rights under this clause 9.5, which costs are payable to Kenna on demand; and
- (d) the Customer indemnifies and must keep indemnified Kenna against all actions, claims, proceedings, demands, liabilities, losses, damages, expenses and costs (including legal costs on a full indemnity basis) that may be brought against Kenna or which Kenna may pay, sustain or incur as a direct or indirect result of the exercise by Kenna of its rights under this clause 9.5.

10. Intellectual property

10.1 Use of Kenna Trade Identification

Kenna grants to the Customer until any Cessation of Supply, a non-exclusive right to use the Kenna Trade Identification in relation to any advertising or other promotional activities carried out by the Customer in respect of any Products.

10.2 Ownership of Intellectual Property Rights

The Customer acknowledges and agrees that each Intellectual Property Right is owned or entitled to be owned by Kenna or a Related Body Corporate of Kenna.

10.3 Customer's obligations

The Customer must:

- (a) only use the Intellectual Property Rights in accordance with the reasonable written directions of Kenna (including directions relating to reproducing the Kenna Trade Identification on websites or any other forum);
- (b) not license any of the Intellectual Property Rights to or allow the use of any of the Intellectual Property Rights by any other person in any circumstances;
- (c) not use the Kenna Trade Identification in conjunction with or as part of any other trademarks, names or words, without the prior written consent of Kenna;
- (d) at all times maintain the distinctiveness of and reputation associated with the Kenna Trade Identification as reasonably required by Kenna;
- (e) immediately notify Kenna of, and comply with Kenna's directions in relation to, any issue, claim, demand, threat, notice of proceedings or cause of action (whether contingent, accrued or otherwise) against or involving the Customer relating to any Intellectual Property Rights; and
- (f) do all other acts and things that may be reasonably required by Kenna to ensure the protection of the Intellectual Property Rights.

11. Return of Products

To the maximum extent permitted by Law, Products delivered by Kenna in accordance with these Terms can only be returned by the Customer to Kenna for a full or partial refund to the extent that Kenna, in its absolute discretion, authorises the return of the Products for that purpose in accordance with Kenna Return for Credit Policy from time to time.

12. General obligations in relation to Products

In addition to all its other obligations under these Terms, the Customer must:

- (a) immediately inform Kenna of all defects, warranty claims, customer complaints or other issues arising in relation to the Products, and comply with Kenna's reasonable directions in relation to those matters;
- (b) not, without Kenna's prior written consent, admit liability on behalf of Kenna regarding any complaint or claim, or attempt to resolve or settle any complaint or claim, made in relation to any Products;
- (c) implement and maintain a product returns policy for the return of Products, as approved by Kenna from time to time;
- (d) ensure that all Product warranties or other terms and conditions relating to the Products and issued by Kenna or any of its Related Bodies Corporate, are provided to customers of the Customer in a manner that ensures that such warranties and terms and conditions are binding on customers of the Customer;
- (e) subject to clause 10, sell and promote the Products in a proper, professional and diligent manner, and otherwise act in a manner that promotes and protects the interests of Kenna;
- (f) attend and actively participate in regular reviews of any matter tabled for discussion by Kenna or the Customer, at such times and places that are specified by Kenna from time to time; and
- (g) comply with all applicable Laws.

13. Force Majeure

- (b) The obligations of Kenna will be suspended during the time and to the extent that Kenna is prevented from or delayed in complying with those obligations as a result of a Force Majeure Event.
- (c) If Kenna is affected by a Force Majeure Event, it must:
 - (i) as soon as reasonably possible after being affected give the Customer particulars of the Force Majeure Event and the manner in which Kenna's performance of its obligations will be prevented or delayed; and
 - (ii) take reasonable steps to remove, overcome or minimise the effects of the Force Majeure Event, except that Kenna is not obliged to settle a strike, lockout or other labour difficulty.

14. Liability

14.1 Application of the ACL

This Agreement does not exclude, restrict or modify the application of any provision of the ACL, the exercise of any right or remedy conferred by the ACL, or the liability of Kenna for a failure to comply with any applicable consumer guarantees, where to do so would either contravene the ACL or cause any part of these conditions to be void.

14.2 No direct, indirect or consequential loss

- (a) Subject to this clause 14.2, Kenna is not liable to the Customer or to any other person (including any customers of the Customer) for:
 - (i) any loss or damage of any kind that is directly or indirectly caused by or results from any wrongful, wilful or negligent act or omission of the Customer or any of its officers, employees, agents or contractors; or
 - (ii) any direct, indirect, incidental, special or consequential loss or damage, loss of profits or anticipated profits, economic loss, loss of business opportunity, loss of data or loss or damage resulting from wasted management time irrespective of whether:
 - (A) the loss or damage is caused by or relates to breach of contract, statute, tort (including negligence) or otherwise; or
 - (B) the Customer or any other person was previously notified of the possibility of the loss or damage;
 - (iii) Products supplied pursuant to this Agreement; and
 - (iv) failure or omission on the part of Kenna to comply with its obligations under this Agreement.

14.3 No other representation or warranties

Subject to clause 14.1, any representation, warranty, condition, guarantee or undertaking that would otherwise be applied to or implied in this Agreement by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by Law.

14.4 Maximum liability

Subject to clause 14.1, the maximum aggregate liability of Kenna:

- (a) for failure to comply with any consumer guarantee in respect of the supply of the Products that are not of a kind ordinarily acquired for personal, domestic or household use or consumption, is limited at Kenna's option in its sole discretion to:
 - (i) the cost of resupplying the Products (or that part which caused the failure); or
 - (ii) the cost of having the Products repaired; and
- (b) for all proven losses or damages resulting from Kenna's breach of this Agreement, including negligence, or breach of common law or statute, is limited to the lesser of:
 - (i) the sum of the amounts paid by the Customer to Kenna in respect of the relevant Purchase Order; and

14.5 Indemnity

Subject to clause 14.1 and to the extent permitted by Law, the Customer indemnifies Kenna and its officers, employees and agents, against all expenses, losses, damages and costs which Kenna may sustain or incur as a result, whether directly or indirectly, of:

- (a) any breach of this Agreement by the Customer including, but not limited to, a breach in respect of which Kenna exercises an express right to terminate this Agreement;
- (b) any claim by any third person (including a customer of the Customer) arising out of a breach of the Customer's obligations and responsibilities under this Agreement; and
- (c) any wilful, unlawful or negligent act or omission of the Customer or any of its officers, employees, agents or contractors.

14.6 Survival of clause

Despite any other provision of this Agreement, this clause 14 survives the expiry or termination of this Agreement.

15. PPSA

15.1 Definitions

For the purposes of this clause 15, the following definitions apply:

- (a) **Kenna Property** means all property in which Kenna has an interest under these Terms or a Security Interest for the purposes of the PPS Law;
- (b) **PPSA** means the *Personal Property Securities Act 2009 (Cth)*;
- (c) **PPS Law** means the PPSA and any amendment made at any time to any other Law as a consequence of the PPSA; and
- (d) **Security Interest** has the meaning given to that term in section 12 of the PPSA.

15.2 PPSA further steps

- (a) If, in Kenna's opinion:
 - (i) these Terms contain or constitute a Security Interest for the purposes of the PPSA or such a Security Interest is created by a party complying with these Terms; or
 - (ii) the PPS Law does or could affect Kenna's rights or obligations under or in connection with these Terms, (each a **PPSA Event**), then Kenna may, at its discretion, do any of the following:
 - (iii) register or give any notification in connection with any relevant Security Interest and exercise rights in connection with the Security Interest; and
 - (iv) give notice to the Customer requiring it to do anything, at its expense, (including amending or executing any document or agreement, obtaining consents and supplying information) that Kenna requires for the purposes of the relevant PPSA Event.
- (b) The Customer must comply with any notice received pursuant to clause 15.2(a)(i-iv) within the time stipulated in the notice.

15.3 Kenna's right to terminate

If:

- (a) any action referred to in clause 15.2 is not taken to Kenna's satisfaction; or
 - (b) despite such action, Kenna determines that any of its rights or obligations have been or will be materially adversely affected,
- then Kenna may give notice of a Cessation of Supply to the Customer.

16. Privacy and Credit Reporting

16.1 Consent to collection, use and disclosure of information

If the Customer as submitted an application for credit to Kenna (**Credit Application**), then it hereby consents to Kenna collecting and using Personal Information of or relating to the Customer for the purpose of:

- (a) assessing the Credit Application and the credit worthiness of the Customer;
- (b) to the maximum extent permitted by Law, assisting Kenna in the exercise of its rights against the Customer, including the right to enforce payment of any amount payable under these Terms (or otherwise); and
- (c) any other lawful purpose required by Kenna,

and Kenna may disclose that Personal Information to any person considered reasonably appropriate by Kenna to achieve any such purpose, including disclosing such information to a Credit Reporting Agency.

16.2 Credit Report

To the extent, Kenna considers it relevant to assessing any Credit Application of the Customer for commercial credit, the Customer agrees to Kenna obtaining from a Credit Reporting Agency a Credit Report containing the Personal Information of or relating to the Customer.

17. General

17.1 Entire understanding

- (a) These Terms (together with any relevant and accepted Purchase Order) contains the entire understanding between the parties concerning the subject matter of the Terms and supersede all prior communications between the parties. In particular, these Terms supersede all terms or conditions submitted by the Customer, which will not apply to the provision of Products except to the extent expressly agreed by Kenna in writing.
- (b) Each party acknowledges that, except as expressly stated in these Terms, that party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another party in relation to the subject matter of these Terms.

17.2 Severability

Any provision of these Terms which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from these Terms in any other case, without invalidating or affecting the remaining provisions of these Terms or the validity of that provision in any other jurisdiction.

17.3 No variation

These Terms cannot be amended or varied except with the prior written consent of Kenna.

17.4 Governing law and jurisdiction

- (a) These Terms are governed by and must be construed in accordance with the laws in force in Victoria.
- (b) The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to these Terms, their performance or subject matter.

18. Definitions

In these Terms:

Approved Credit Limit means the dollar amount specified by Kenna in its notice to the Applicant accepting any credit application, which dollar amount may be varied from time to time by Kenna without any need to give notice to the Customer;

Australian Consumer Law or ACL means Schedule 2 of the *Competition and Consumer Act 2010 (Cth)* (whether applied as law of the Commonwealth or any State or Territory of Australia) or other equivalent State or Territory legislation, as amended or consolidated, or replaced from time to time;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Victoria;

Business Hours means between the hours of 9am and 5pm on a Business Day;

Customer means any person buying the Products under these Terms;

Cessation of Supply means any reason by which these Terms or a Purchase Order are terminated or cancelled in accordance with clauses 7.1(a) to (c) (inclusive);

Change of Control means, in relation to a body corporate, the occurrence of an event or circumstance where a person who is not presently able to do any of the following things becomes able to do one of the following things (whether directly or indirectly or through one or more intervening persons, companies or trusts):

- (a) control the composition of more than one half of the Customer's board of directors;
- (b) be in a position to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the members of the Customer; or
- (c) hold or have a beneficial interest in more than one half of the issued share capital of the Customer;

Controller means, in relation to a person:

- (a) a receiver, receiver and manager, administrator or liquidator (whether provisional or otherwise) of that person or that person's property; or
- (b) anyone else who (whether or not as agent for the person) is in possession, or has control, of that person's property to enforce an encumbrance;

Corporations Act means the *Corporations Act 2001 (Cth)*;

Credit Report and Credit Reporting Agency have the meanings given to those terms in the *Privacy Act 1988 (Cth)*;

Event of Default means, in relation to the Customer, the occurrence of any one or more of the following events or circumstances:

- (a) the Customer fails to comply with any of its obligations under these Terms;
- (b) an Insolvency Event occurs in relation to the Customer (or any person comprising the Customer);
- (c) a Change of Control occurs in relation to the Customer (or any person comprising the Customer), other than with the consent of Kenna;
- (d) a notice of deregistration of the Customer is given under sections 601AA(5) or 601AB(5) of the Corporations Act;
- (e) the Customer fails to pay by the due date any amount due and payable by it under these Terms;
- (f) the Customer becomes unable to perform all of its obligations and take all actions contemplated under these Terms; and
- (g) the Customer ceases or threatens to cease to carry on business or a substantial part of it;

Force Majeure Event means any act, event or cause, other than a lack of funds:

(a) as a direct or indirect result of which, the party relying on it is prevented from or delayed in performing any of its obligations under these Terms; and

(b) that is beyond the reasonable control of that party;

Government Agency means any government or any public, statutory, governmental (including a local government), semi-governmental, local governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute;

GST has the meaning given to that term in the GST Act;

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

including or any form of that word must be construed as if it were followed by "(without being limited to)";

Insolvency Event means, in relation to the Customer, any one or more of the following events or circumstances occurring in relation to the Customer:

(a) being in liquidation or provisional liquidation or under administration;

(b) having a Controller or analogous person appointed to it or any of its property;

(c) being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;

(d) being unable to pay its debts or being otherwise insolvent;

(e) becoming an insolvent under administration, as defined in section 9 of the Corporations Act;

(f) entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; and

(g) any analogous event or circumstance under the laws of any jurisdiction;

Intellectual Property Rights means all present and future intellectual and industrial property rights in the Products conferred by Law and wherever existing, including:

(a) the Kenna Trade Identification;

(b) patents, designs, copyright, rights in circuit layouts, know how, domain names, inventions, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;

(c) any application or right to apply for registration of any of these rights;

(d) any registration of any of these rights or any registration of any application referred to in paragraph (c); and

(e) all renewals and extensions of these rights;

Kenna means Kenna International Corporation Pty Ltd ACN 065 012 948;

Kenna Trade Identification means the trademarks, service marks, symbols, branding, logos and other trade indicia (whether registered or not) owned or controlled by Kenna or any of its Related Bodies Corporate and used in connection with the business conducted by Kenna and its Related Bodies Corporate under the "Kenna" name (or any name which replaces the "Kenna" name);

Law means:

(a) principles of law or equity established by decisions of courts;

(b) statutes, regulations or by-laws of the Commonwealth, a State, a Territory or a Government Agency; and

(c) requirements and approvals (including conditions) of the Commonwealth, a State, a Territory or a Government Agency that have the force of law;

Ordered Products means the Products specified by the Customer in a Purchase Order that has been accepted by Kenna;

person includes a natural person and anybody or entity whether incorporated or not;

Personal Information means information of or relating to a person and, where applicable, includes "personal information" (as that term is defined in the *Privacy Act 1988 (Cth)*) of or relating to that person;

Prescribed Rate means the rate that is 2% per annum above the rate fixed from time to time under section 2 of the *Penalty Interest Rates Act 1983 (Vic)*;

Products means the products manufactured or supplied by or at the request of Kenna or any of its Related Bodies Corporate, but only to the extent that those products are authorised by Kenna from time to time for purchase by the Customer under these Terms;

Purchase Order means an order for Products that is in the form specified by Kenna from time to time, which must include the following details:

(i) product code for each Ordered Product;

(ii) quantity of each Ordered Product required; and

(iii) Delivery Address for the Ordered Products;

Related Body Corporate has the meaning given to that term in the Corporations Act; and

Tax means all forms of taxes, duties, imposts, charges, withholdings, rates, levies or other governmental impositions imposed, assessed or charged by any Government Agency, together with all interest, penalties, fines, expenses and other additional statutory charges resulting from a failure to pay when due the full amount of any such imposition; and

Terms means the General Terms as amended by Kenna from time to time (including the Special Conditions, if applicable)