

Form 634Bnew

## SALES TERMS AND CONDITIONS OF Reliance Worldwide Corporation (Aust.) Pty Ltd (“the Company”) including Privacy Disclosure Statement

Your Privacy Disclosure Statement is (if applicable) contained as part of your credit application form that you have already signed. You can also access another copy of your Privacy Disclosure Statement (as amended from time to time) on our website [www.rwc.com/au](http://www.rwc.com/au) for your convenience.

### 1. Applicability of Sales Terms and Conditions

- (a) **Except as otherwise expressly agreed upon in writing by Seller, these Sales Terms and Conditions shall apply to every sale of goods or services by Seller to Buyer, notwithstanding any provisions to the contrary that may appear on an order form or other documents issued by Buyer.** Seller may modify these Sales Terms and Conditions at any time, and the modified Sales Terms and Conditions shall apply to every order placed by Buyer after Seller has provided notice of the modification to Buyer. The Sales Terms and Conditions (as modified from time to time) are available on Seller’s website, the details of which are [www.rwc.com/au](http://www.rwc.com/au).
- (b) If Seller expressly agrees in writing to any special terms (“Special Terms”), these Sales Terms and Conditions shall be construed as consistent with and in addition to any such additional terms except where any special term specifically varies or overrides any provision of these Sales Terms and Conditions.

### 2. Definitions

In these Sales Terms and Conditions and any applicable Special Terms:

- (a) Seller means the Company.
- (b) Buyer means any person or business that purchases goods or services from Seller.
- (c) The request by Buyer to Seller for Seller to supply it with goods shall constitute only an invitation by Buyer to treat with Seller, and shall not constitute an offer capable of acceptance.
- (d) The delivery of goods by Seller to Buyer shall constitute an offer by Seller to Buyer for Buyer to purchase the goods so delivered for the price stipulated on the invoices relating to the same (whether accompanying the said goods or not) and subject at all times to these Sales Terms and Conditions.
- (e) The acceptance of any goods delivered by Seller to Buyer in accordance with Buyer’s invitation shall constitute acceptance by Buyer of Seller’s offer.

### 3. Quotations and Orders

- (a) Unless earlier withdrawn or modified, any quotation issued by Seller to Buyer for specific goods or services shall be valid for the period stated in the quotation or, if no period is stated, for thirty (30) days from the date of the quotation. Seller may withdraw or modify a quotation at any time until Seller has accepted in writing any order by Buyer for the goods or services specified in that quotation.
- (b) Seller shall not be bound by any condition included with any order by Buyer unless that condition is expressly accepted by Seller in writing. If Buyer accepts any quotation by delivering to Seller an order form or document which stipulates or purports to impose conditions, no such condition shall be applicable to the sale resulting from the quotation without Seller’s express written acceptance of that condition.
- (c) Every quotation shall be subject to and conditioned upon Buyer’s obtaining, at Buyer’s expense, any necessary import, export or other license.

### 4. Adjustments to Quotations

- (a) Any quotation for goods to be obtained by Seller for Buyer from a foreign supplier for which Seller will make payment in a currency other than the currency of the country of Seller is made on the basis of the applicable currency exchange rate prevailing at the time of the quotation, and is subject to increase if the applicable currency exchange rate changes adversely after the date of quotation and before Seller’s remittance of payment to the supplier. In the event of any such adverse change, Buyer shall be obligated to pay any additional amount resulting from this change.
- (b) Any quotation for the manufacture of goods by Seller is made on the basis of costs prevailing at the time of the quotation for materials, parts, equipment required to be purchased as component parts, transportation and labour, and is subject to change if these costs increase after the date of quotation and before delivery. In the event of any such increase, Seller may include the amount of the increase in the price of the goods and Buyer shall be obligated to pay the increased amount upon acceptance. Without limiting the generality of the term “cost of labour” includes any increase resulting from or required by any statute, regulation, award, or determination by which rates of pay are increased or by which hours of work are reduced for holidays, sick leave or any benefit or amenity is increased, any of which shall be deemed to be an increase in the cost of labour



## 5. Repudiation of Order

If Buyer rejects or revokes acceptance of ordered goods other than in accordance with the terms herein, fails to make payment for part or all of any order, or repudiates part of all of an order, Seller, in addition to any other available remedies, may require Buyer to pay all costs and expenses incurred by Seller in connection with the performance of the order, plus Seller's anticipated profit on the order.

## 6. Permits and Approvals

For any services to be performed by Seller outside Seller's premises, Buyer shall have full responsibility to obtain and provide any access, services, facilities, permits, approvals or licenses as may be necessary or required for Seller's performance of such services, unless expressly provided otherwise in writing by Seller.

## 7. Publications

Unless expressly provided otherwise in writing by Seller, all specifications, drawings and particulars of weights, dimensions and performance characteristics submitted by Seller are only approximations, and all descriptions and illustrations contained in catalogues, price lists and other written material are intended merely to present a general idea of the goods described therein and none of these shall be deemed representations or warranties regarding any goods.

## 8. Delays by Seller

Unless expressly provided otherwise in writing by Seller, any dates and/or times quoted by Seller for the delivery of any goods or the performance of any service are estimates and Seller will not be held responsible for any delay. Buyer's acceptance of goods and services shall constitute a waiver of any claim for delay. As provided more fully in [Section 12](#) below, Seller shall have no liability whatsoever for any direct, indirect or consequential damages arising from or relating to non-delivery or any delays in delivery, including off-loading or misdirection in transit.

## 9. Seller's Use of Other Suppliers

Buyer acknowledges that, in fulfilling any contract for the sale of goods, Seller in its sole discretion

- (a) may manufacture part or all of the specified goods,
- (b) may purchase part or all of the goods from a third party, including another supplier, and/or
- (c) may order the manufacture of part or all of the goods from another manufacturer.

## 10. Warranty

- (a) To the extent it is within the control of Seller, Seller shall pass on to Buyer any manufacturer's warranty for goods supplied by Seller.
- (b) Buyer shall immediately notify Seller in writing upon discovery of any suspected defect in any goods. Buyer shall not undertake any alterations, repairs or remedial work to any goods supplied by Seller without first obtaining Seller's written consent to do so.
- (c) EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION OR REQUIRED BY APPLICABLE LAW OR AS MADE IN ANY WEBSITE OR OTHER PRODUCT PROMOTIONAL MATERIAL CURRENT AT THE TIME OF THE SALE OR AS OTHERWISE EXPRESSLY PROVIDED IN WRITING TO BUYER BY AN AUTHORISED REPRESENTATIVE OF SELLER AT THE TIME OF SALE, SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, ABOUT ANY GOODS OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (d) Buyer expressly acknowledges and agrees that
  - (i) Seller is not liable for any advice given by Seller's agents or employees regarding the suitability for any purpose of goods supplied by Seller, and
  - (ii) Buyer bears full and sole responsibility for the selection of any goods to be supplied and any services to be performed by Seller to achieve Buyer's purposes.

## 11. Acceptance and Return of Goods

- (a) Seller may deliver any goods ordered by Buyer progressively in such amounts as Seller shall determine in its sole discretion, in which case Buyer shall be obligated to make payment progressively for the goods as they are delivered.
- (b) Buyer shall examine any goods supplied by Seller immediately upon arrival at the designated place of delivery. If any goods are damaged (whether by transit or otherwise) or otherwise defective, Buyer shall notify Seller in writing of the particulars regarding the defects within forty-eight (48) hours after arrival of goods at the place of delivery, and also shall immediately respond to any requests by Seller for additional information regarding the alleged defects.
- (c) Buyer shall be deemed to have accepted all goods supplied by Seller as being of the description, quality and quantity ordered unless Buyer notifies Seller in writing of the particulars regarding any defects as required above.
- (d) Seller has no obligation to allow Buyer to return any goods that conform to the terms of Buyer's order as accepted by Seller. If Seller, in its sole discretion, allows Buyer to return such goods, Buyer agrees to pay any applicable return freight cost or restocking fee.
- (e) Goods that are specially purchased, manufactured, machined or cut to size or to Buyer's drawings and/or specifications may not be returned.



## 12. Limitations on Liability; Indemnification

- (a) Except as otherwise provided in these Sales Terms and Conditions or by applicable law, Seller shall have no liability, whether in contract, tort or otherwise, for
  - (i) any alleged defects in goods provided by Seller to Buyer, or
  - (ii) for any injury, damage or loss Buyer or any person claiming through Buyer may suffer or incur that arises from or relates to any allegedly defective goods or any work done in connection therewith.
- (b) Notwithstanding any other provisions of these Sales Terms and Conditions to the contrary, Seller shall not be liable to Buyer for any indirect, consequential or punitive loss, damage, cost or expense of any nature (even if advised of the possibility of such loss, damage, cost or expense), including, without limitation, any economic loss or damage, any expense, and any loss of business, profits or revenue, goodwill, anticipated savings, operation time or contracts.
- (c) With respect to any goods manufactured in accordance with Buyer's drawings and/or specifications, Buyer shall indemnify Seller against any damages, losses, liabilities, costs, or other expenses, including attorneys' fees, that Seller may incur, including without limitation any amounts that Seller may pay or owe to any third party that has manufactured such goods, which arise from or relate to any claim that the goods infringe any patent, copyright, trademark, trade secret rights or other intellectual property right of any third party.
- (d) All goods are supplied in accordance with the normal industry standards applicable to them, and Seller shall not be liable to Buyer for the condition or quality of goods which comply with these standards.

## 13. Tax on Sales of Goods and/or Services

Unless expressly provided otherwise in writing by Seller, any price quoted by Seller for goods and/or services does not include any tax on sale of or the provision of goods or services or any other applicable tax, and any such taxes will be added to the quoted price.

## 14. Means and Cost of Delivery

Unless expressly agreed otherwise in writing by Seller,

- (a) if Seller prepays any freight, insurance, custom or import duties, landing or delivery charges, or any other charge in connection with shipment and delivery of the goods to Buyer, then any such charges shall be for Buyer's account, and
- (b) where delivery is arranged by Seller, Seller has the right to determine the means of delivery.

## 15. Risk of Loss, Insurance and Title

- (a) Unless otherwise agreed in writing, the risk of ordered goods passes to Buyer upon delivery to Buyer in accordance with Section 15(b).
- (b) Delivery of the ordered goods to Buyer or such person (including courier) nominated by Buyer or destination nominated by Buyer and agreed by Seller shall constitute both delivery to and receipt of ordered goods by Buyer. Unless otherwise agreed in writing, Buyer shall arrange and pay the cost of insurance and shipment of ordered goods.
- (c) Notwithstanding any provisions to the contrary in these Sales Terms and Conditions or any Special Terms or other documents related to the order or sale of any goods, title to any ordered goods shall not pass to Buyer until Seller has received payment in full for all amounts owed in connection with the sale of those goods. Until Seller has received such payment, Buyer shall store the ordered goods separately and apart from its own goods and those of any other person or company, and Seller shall be entitled to retake possession of part or all of the goods delivered to Buyer. Seller shall not exercise such right unless any such payment is overdue or these Sales Terms and Conditions and any Special Terms have otherwise been breached by Buyer.

## 16. Payment

- (a) Unless expressly agreed otherwise in writing by Seller, Buyer must make payment in full for all goods within 30 days from end of month. If Seller delivers any goods progressively, Buyer shall be obligated to make payment progressively for the goods as they are delivered.
- (b) If Buyer fails to make any payment in full within the designated time period, then
  - (i) payment for any other goods delivered to Buyer shall become immediately due, and
  - (ii) Seller shall be entitled to suspend delivery of any other goods ordered by Buyer until Seller has received payment in full for all goods previously delivered to Buyer.
- (c) If Seller has agreed that any payment will be due upon a delivery, installation, commission, test or other scheduled event, but the occurrence of that event is delayed by Buyer, the delay shall not extend the due date for that payment. In this situation, Buyer must make payment as though the scheduled event had been completed on the date originally established for that event, and also shall pay for any additional costs and expenses incurred by Seller as a result of Buyer's delay.
- (d) Unless agreed in writing to the contrary, Buyer shall not make any deductions whatsoever from payments due under these Sales Terms and Conditions.
- (e) If Buyer is in breach of any obligation under these Sales Terms and Conditions, Seller shall be entitled to set off any amount or part that may be owing or becomes owing from Seller to Buyer under any obligation (in contract, tort or otherwise) between Seller and Buyer.



### 17. Late Fee on Overdue Payments

The granting of credit to Buyer shall be at the absolute discretion of Seller. If payment is not made strictly within the terms attaching to the quotation interest may be charged from either date that goods are available for dispatch, equipment is commissioned or date of invoice whichever occurs first and until all unpaid monies are received. Payment will be credited first against interest accrued. The rate of interest applicable shall be 9% per annum for the period that the relevant amount is overdue.

### 18. Buyer's Default

Each of the following shall constitute a default by Buyer:

- (a) failure to make any payment when due (whether to Seller or any third party),
- (b) bankruptcy, liquidation, dissolution, making of any assignment for the benefit of its creditor(s) or entering into any type of workout arrangement with any creditor(s),
- (c) death or incapacity, or;
- (d) the commencement of foreclosure or forfeiture proceedings by any creditor, including any governmental agency, against property owned by Buyer (whether by judicial proceeding, self-help, repossession or any other method),
- (e) the appointment of a receiver for any part of any Buyer's business or property,
- (f) any change in ownership of Buyer,
- (g) any adverse change in the financial condition of Buyer or any director or owner that has guaranteed the obligations of Buyer to Seller, that causes Seller to believe its prospect of payment is impaired, as may be applicable.

Upon the occurrence of any default by Buyer, Seller, at its option without notice to Buyer and without prejudice to any other rights or remedies available to Seller, may immediately

- (i) cancel any outstanding orders from Buyer,
- (ii) refuse delivery of any ordered goods, and
- (iii) stop delivery of any goods in transit to Buyer hereunder at Seller's option

always reserving to Seller all rights to recover any loss consequent upon any such loss cancellation or suspension.

Buyer shall be responsible for all direct, incidental and consequential damages Seller may incur upon the occurrence of any default by Buyer or in collecting amounts due from Buyer, including without limitation reasonable attorneys' fees, court costs and legal expenses.

### 19. Intellectual Property

- (a) All drawings, illustrations, specifications, literature, and other product materials relating to goods offered by Seller to Buyer are and shall remain the exclusive property of Seller, regardless of whether the product materials were provided directly by Seller. Buyer shall not transfer any such product materials to any third party without Seller's prior written consent. Buyer shall not use, reproduce or disseminate any information contained in such product materials to any third party without Seller's prior written consent except as required for the purpose of placing an order with Seller for the goods to which such materials relate. Buyer shall return all product materials to Seller upon either Buyer's receipt of the goods to which they relate or Seller's request, whichever occurs first.
- (b) Buyer represents and warrants that, with respect to any goods manufactured in accordance with Buyer's drawings and/or specifications or instructions, those drawings and/or specifications or instructions do not or will not cause Seller to infringe any patent, copyright, trademark, trade secret rights or other intellectual property right of any third party, and Buyer agrees to indemnify Seller against any infringement claims as provided in Section 12 above.

### 20. Right of Removal

Buyer irrevocably grants to Seller and its employees and agents an unrestricted right and license to enter, without notice, premises occupied by Buyer to identify and remove any goods supplied by Seller for which Seller has not received payment in full by the due payment date. To the fullest extent permitted by law, Seller shall have no liability to Buyer or any person claiming through Buyer for any damages arising from or related to Seller's exercise of this right. Seller shall have the right to sell or dispose of any of such goods so removed or otherwise in its sole discretion and shall not be responsible for any loss occasioned thereby.

### 21. Change in Buyer

Buyer immediately shall notify Seller in writing of any change in Buyer's contact information and, if Buyer is a business organization, of any change in Buyer's name, structure, ownership, or authorized representatives. Seller is entitled to rely on any information provided by Buyer until Seller has received written notice of any change to that information and had a reasonable opportunity to act on that notice. Except as expressly recognized in writing by Seller, no change to Buyer's name, structure or ownership shall affect Buyer's obligations to Seller.

### 22. Credit Enquiries

Buyer authorizes Seller to investigate and to obtain and exchange information regarding Buyer, including information regarding Buyer's creditworthiness, as deemed necessary by Seller from time to time. Privacy Disclosure Statement that accompanied the credit application by Buyer (if any) are deemed to the extent necessary by law to be incorporated into these Sales Terms and Conditions and any Special Terms.

### 23. Governing Law; Severability; Submission to Jurisdiction

All sales of goods and services by Seller to Buyer shall be governed by and construed in accordance with the laws of Victoria, Australia, without reference to its conflicts of law rules. The headings used in these Sales Terms and Conditions are for reference and convenience only, and shall not affect the construction of these Sales Terms and Conditions. If any provision of these Sales



Terms and Conditions conflicts with applicable law or is held to be invalid by an arbitrator or a court with jurisdiction over the parties, that provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties, and the remaining provisions shall remain in full force and effect. Any legal action or other proceeding brought by Buyer or Seller against the other arising out of or relating to goods supplied or to be supplied by Seller to Buyer shall be instituted in the federal court for or the state court sitting in Victoria, Australia. With respect to any such proceeding, Buyer, to the fullest extent permitted by law:

- (i) waives any objections that Buyer may now or hereafter have based on venue and/or forum non conveniens of a proceeding in such court; and
- (ii) irrevocably submits to the jurisdiction of any such court in any proceeding.

Notwithstanding anything to the contrary in this Section, Seller may commence legal proceedings or otherwise proceed against Buyer in any other jurisdiction if determined by Seller to be necessary in order to fully enforce or exercise any right or remedy of Seller.

#### 24. PPSA (Australia)

If Seller is Reliance Worldwide Corporation (Aust.) Pty Ltd then the following applies:

##### (a) Security and Risk

- (i) The goods delivered by Seller to Buyer will be and remain the property of Seller until there are no debts or other obligations (including an outstanding price) owed by Buyer to Seller on any account. When there are no such debts or other obligations title to the goods will pass from Seller to Buyer. Until title passes Buyer is the bailee of Seller's goods. Buyer may sell the goods which have been delivered to Buyer or use them in a manufacturing process so long as Buyer does so in accordance with clause 24(a)(x).
- (ii) For the purposes of the *Personal Property Securities Act 2009* ("PPSA") each contract between Seller and Buyer which arises on Acceptance will constitute a security agreement to secure payment of the price payable under that contract and all of Buyer's other outstanding debts and obligations to Seller from time to time. Those other outstanding debts and obligations include the price payable under each other contract. The security interest arising under each of those security agreements will continue until all of Buyer's debts and obligations under each contract which arises on any Acceptance or under these Condition of Sale have been satisfied in full.
- (iii) The security interest which arises under each contract between Seller and Buyer will be a purchase money security interest to the extent that it secures the outstanding balance of the price payable for the goods sold under that contract. To the extent the security interest secures other debts and obligations (including the price payable under other contracts) the security interest will not be a purchase money security interest. Each security interest will extend to all proceeds (including any accounts) and to accessions. If the goods are used in a manufacturing process or are mingled with other property Seller will have a security interest in the commingled property.
- (iv) When Buyer makes a payment to Seller that payment will, despite any application specified by Buyer, reduce a liability which is secured by a security interest which is not a purchase money security interest before it reduces a liability which is secured by a purchase money security interest.
- (v) Buyer must not move the goods outside Australia without Seller's prior written consent until such time as title is transferred to Buyer which occurs when there are no debts or other obligations owed by Buyer to Seller.
- (vi) Buyer must execute any documents, provide all information and do anything Seller may require to ensure that Seller has a perfected security interest in the goods (including proceeds) which has priority over all other interests (including all other security interests). Seller may take any action Seller thinks appropriate so that it obtains that perfected security interest. Any rights which Seller has in addition to those in Chapter 4 of the PPSA will continue to apply.
- (vii) If any other person has a security interest in goods (including any proceeds) Buyer must obtain from that person any waiver or agreement Seller requires to confirm its first ranking security interest. Buyer authorises Seller to request (as Buyer's agent) any information under section 275 of the PPSA from any secured party. Buyer also gives Seller the irrevocable right to search the register in relation to Buyer and its property.
- (viii) If Buyer receives a notice under section 140 of the PPSA Buyer must immediately give a copy of the notice to Seller and all outstanding debts and obligations owed by Buyer to Seller on any account (including the price for any goods which has not otherwise fallen due to be paid) will become immediately due and payable.
- (ix) Buyer warrants that its name, date(s) of birth (if individual person(s)), ACN, ARSN or ABN as disclosed to Seller is accurate and that it does not have any identifying characteristics which have not been disclosed to Seller. Buyer must immediately notify Seller in writing of any change in Buyer's name, ACN, ARSN or ABN or any other identifying characteristics.
- (x) Buyer may sell the goods or use them in a manufacturing process so long as Buyer does so in the ordinary course of the type of business which Buyer conducts. Buyer must not hold itself out to others as being Seller's agent. Any sale is to be at arm's length and on market terms. Pending sale or utilisation in any manufacturing process Buyer must take reasonable care of the goods; keep them separate from Buyer's own property and anyone else's property in a way which identifies them as Seller's goods; and insure the goods against usual risks under a policy with usual terms. If Buyer receives any money under that policy it will be held on trust for Seller. Any right to bind Seller to any liability to any third party by contract or otherwise is expressly negated.
- (xi) Subject to other provisions in these Sales Terms and Conditions, risk in respect of goods sold will pass to Buyer immediately upon the goods being dispatched from the premises of Seller for delivery to Buyer, or other place of business nominated by Seller.
- (xii) Expressions used in clauses 24(a) and (b) that are defined in the PPSA have the same meanings given to those terms and conditions in the PPSA.





**(b) PPSA Exclusions**

- (i) Buyer agrees that the goods are not intended to be used by Buyer, nor will be used by Buyer, for personal, household or domestic purposes. Buyer must only use the goods as permitted by clause 24(a)(x).
- (ii) Buyer agrees that nothing in sections 117(3), 130(1)(a) and 143 of the PPSA will apply to these Sales Terms and Conditions, a contract which arises from an Acceptance or a security interest which is created or arises under these Sales Terms and Conditions or any of those contracts.
- (iii) Buyer waives any right which it may have to:
  - refuse permission under section 94 of the PPSA or receive a notice under section 95 of the PPSA;
  - receive a notice under sections 118(1)(b)(i), 121(4), 123(2), 129(1)(a), 130, 134(1) and 135 of the PPSA;
  - complain of, or seek redress for, any damage, cost or inconvenience caused by Seller taking apparent possession of goods under section 126 of the PPSA;
  - object to Seller's proposal to purchase goods under section 129(2)(b) of the PPSA;
  - receive a statement of account under sections 132(3)(d) or 132(4) of the PPSA;
  - redeem goods under section 142 of the PPSA or reinstate a security agreement under section 143 of the PPSA; and
  - receive a notice of verification statement under section 157 of the PPSA.