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ABN 19 009 343 195

Terms and Conditions of Sale: North America

1. DEFINITIONS AND INTERPRETATION

In these Terms and Conditions of Sale:

- (a) **"Agreement"** means this agreement, including any Credit Account Application Form completed by the Purchaser, and accepted by RCT;
- (b) **"Delivery Address"** means
.....;
- (c) **"Good"** or **"Goods"** means any item supplied by RCT to the Purchaser;
- (d) **"person"** includes an individual and a corporation;
- (e) **"Price"** means the purchase price for Goods specified by RCT in an invoice issued by it to the Purchaser, after receipt by RCT of a purchase order from the Purchaser, and includes:
 - (i) all fees, charges, costs and expenses relating to insurance, freight, delivery and packing of the goods; and
 - (ii) any taxes, duties and charges imposed by any government agency in Australia or overseas in connection with the supply of goods or services under this Agreement;
- (f) **"Purchaser"** means a person from whom RCT has received a purchase order;
- (g) **"RCT"** means Remote Control Technologies Pty Ltd, ABN 19 009 343 195 of Unit 3, 511 Abernethy Road, Kewdale, Perth, Western Australia, 6105; and
- (h) **"Services"** means the services described on the order or invoice.

2. SALE OF GOODS BY RCT TO PURCHASER

- (a) Any sale of Goods by RCT to the Purchaser will be pursuant to the terms and conditions of this Agreement.

3. PRICE AND PAYMENT FOR GOODS

- (a) The Purchaser shall pay RCT the Price within thirty (30) days of the date of issue of an invoice by the RCT.
- (b) The Price must be paid in Australian Dollars unless RCT agrees otherwise.
- (c) The Purchaser may not withhold payment or make any deduction from the Price in respect of any alleged set-off, counterclaim or dispute.
- (d) The Purchaser shall be liable for the payment of:
 - (i) all fees, charges, costs and expenses relating to insurance, freight, delivery and packing of the goods; and
 - (ii) any taxes, duties and charges imposed by any government agency in Australia or overseas in connection with the supply or repair of goods under this Agreement.

4. DELIVERY OF GOODS

- (a) RCT will notify the Purchaser in writing when the Goods will be delivered to the Delivery Address.
- (b) RCT will deliver the Goods to the Delivery Address within 24 hours of receipt of the Price, or at the earliest possible time RCT is able to deliver the Goods.
- (c) If RCT has accepted a Credit Account Application by the Purchaser, RCT will deliver the Goods to the Delivery Address within 24 hours of receipt of a purchase order from the Purchaser, or at the earliest possible time RCT is able to deliver the Goods.
- (d) If the Purchaser fails to take delivery of the Goods upon delivery to the Delivery Address, the Purchaser will pay RCT any storage and handling costs charged by RCT arising from that delay.

5. RISK IN, AND TITLE TO, THE GOODS

- (a) Risk in the Goods will pass to the Purchaser upon delivery to the Delivery Address.
- (b) Where the Delivery Address is an address other than RCT, delivery of the Goods by RCT to any carrier or bailee for the purpose of carriage to the Purchaser shall be deemed to be a delivery of the goods to the Purchaser.
- (c) Title in the Goods will pass to the Purchaser upon payment of the Price.
- (d) RCT may make delivery of the Goods by installments, and may determine the route and manner of any delivery of the Goods to the Purchaser.

6. LIMITATION OF LIABILITY

- (a) The Purchaser acknowledges that RCT may not be the manufacturer of the goods.
- (b) To the extent permitted by law:
 - (i) the Purchaser releases and discharges RCT from any defect, liability or injury arising from any Good or any part of any Good; and
 - (ii) releases, discharges and indemnifies RCT from that liability.
- (c) RCT makes no representation or warranty as to the fitness of the purpose for which the Purchaser intends to use the Good(s). The Purchaser agrees, undertakes, represents and warrants to RCT that:
 - (i) it has made its own investigation as to the fitness of the Good for the purpose for which the Purchaser intends to use it (including any on-sale by the Purchaser); and
 - (ii) to the extent permitted by law it releases and discharges RCT for any liability arising from the fitness or otherwise of the Good for the purpose for which the Purchaser intends to use it.
- (d) RCT shall not be liable to the Purchaser for loss, injury or damage of any kind including negligence, arising out of delay in or failure to make delivery of the Goods or any part thereof including consequential loss of any kind whether the same be due to any act, omission, negligence or willful default of RCT or its servants or agents, or any other cause.
- (e) RCT shall not be liable (including in tort) for any defect, failure of or unsuitability for any purpose of the Goods, or of the repair of any part thereof whether the same be due to any act, omission, negligence or willful default of RCT or its servants or agents or to faulty design, workmanship or materials or any other cause.
- (f) To the maximum extent permitted by law, all terms, conditions, warranties, undertakings, inducements and representations, whether express or implied, statutory or otherwise, relating in any way to the goods are hereby excluded.
- (g) RCT shall not be liable for damage to any machinery, chattels or plant in or on which the Goods are installed.
- (h) RCT shall not be liable for any loss, damage, faulty goods or workmanship or short supply unless notice of such loss or damage thereof has been given to RCT by the Purchaser within seven (7) days of the date of delivery of the Goods.

- (i) Any liability by RCT is limited to the repair or replacement of the Goods.

7. **GST**

7.1 In this clause the term "**GST**" and all capitalised terms used have the meanings ascribed to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time) "**GST Act**" or any replacement or other relevant legislation and regulations, except any reference to "**GST law**" which also includes any other legislation enacted to validate, recapture or recoup tax collected as GST.

7.2 If a Party is required under this Agreement to reimburse or pay to another party an amount calculated by reference to a cost, expense, or an amount paid or incurred by that party, the amount of the reimbursement or payment will be reduced by the amount of any input tax credits to which that party (or an entity on whose behalf the party is acting) is entitled in respect of any acquisition relating to that cost, expense or other amount.

7.3 If GST is or becomes payable on any party making a Supply ("**Supplier**") made under this Agreement the Parties agree that:

- (a) Consideration for the Supply is to be considered exclusive of GST;
- (b) the Supplier may recover from the Recipient the amount of GST equal to the amount of GST payable by the Supplier on that Supply;
- (c) except to the extent that paragraph 7.3(d) is applicable, the Supplier will provide to the Recipient a valid Tax Invoice in respect of that Supply, no later than at that time; and
- (d) where amounts are payable pursuant to paragraph 7.3(b), amounts payable, to the extent that they are equivalent in amount, shall be set off against each other as if paid and each party shall be obliged only to give the other the Tax Invoice referred to in paragraph 7.3(c).

If any Consideration is specified in this Agreement to be inclusive of GST, that Consideration (or the relevant part) shall be excluded from the Consideration referred to in paragraph 7.3(a) for the purposes of calculating an amount of GST pursuant to paragraph 7.3(b).

7.4 Where an Adjustment Event occurs in relation to a Supply made by the Supplier under or in accordance with this Agreement the Supplier will issue an Adjustment Note to the Recipient in respect of that supply within 14 days after becoming aware of the relevant adjustment.

7.5 This clause shall not merge on completion of this Agreement.

8. **GENERAL**

- (a) This Agreement may only be amended or varied by written agreement between the parties.
- (b) No failure or delay by RCT to exercise any of its rights operates as a waiver any of the RCT's rights under this Agreement.
- (c) The Purchaser may not assign, sub-contract or transfer any of its rights, duties or obligations under this Agreement without the RCT's prior written consent.
- (d) Any provision of this Agreement which is or is held to be invalid, unenforceable or illegal for any reason is severed to the extent of that invalidity, and the rest of this Agreement remains in force.
- (e) This Agreement is governed by, and to be construed in accordance with the laws of Western Australia, and the parties submit to the exclusive jurisdiction of the Courts of that State.

Signed by [NAME]
for and on behalf of
.....

Signature

Signature of witness

Name of witness in full

Executed for and on behalf of **REMOTE CONTROL
TECHNOLOGIES ABN 19 009 343 195** by
.....

.....
Signature

Signature of witness

Name of witness