

GLENTHORNE TRAILERS

Standard Terms and Conditions of Trade of

Bundesen Pty Ltd (ACN 143 692 460) as trustee for the Bundesen Family Trust trading as Glenthorne Trailers (ABN 55 405 665 546)
("Glenthorne")

The following standard terms and conditions ("**Standard Terms**") apply to all supplies of goods and/or services by Glenthorne to you, unless Glenthorne's Authorised Representative agrees (in writing) to the contrary.

1. Quotation

1.1 If Glenthorne provides a quotation (whether orally or in writing) for the Goods ("**Quotation**") to you, the Quotation is indicative only and is an invitation to treat.

1.2 The Quotation does not in any way bind Glenthorne and Glenthorne may withdraw or vary the Quotation within 30 days from the Quotation.

2. Contract

2.1 If you accept (whether in writing or orally) the Quotation, a legally binding contract ("**Contract**") between Glenthorne and you is formed.

2.2 The Contract comprises the following:

- (a) The Standard Terms;
- (b) The Quotation.

2.3 If there is any inconsistency between any provision in the documents in clause 2.2, the Quotation will take precedence, followed by the Standard Terms.

2.4 Any terms and conditions that you include in the Contract (whether orally or in written communications to Glenthorne) will be of no legal effect and do not form part of the Contract, unless Glenthorne's Authorised Representative expressly agrees in writing that your terms and conditions are accepted and form part of the Contract.

3. Price

3.1 The Price is the price of the Goods as indicated by Glenthorne in the Quotation or in Glenthorne's invoice to you.

3.2 Unless otherwise stated, the Price does not include:

- (a) GST (or other similar sales tax);
- (b) delivery charges;
- (c) transfer duty;
- (d) government fees (e.g. licensing fees).

4. Payment

4.1 Unless Glenthorne specifies otherwise, Glenthorne's terms of payment are as follow:

- (a) Payment of a deposit of 20% of the Price (or as determined by Glenthorne) ("**Deposit**");
- (b) Progress payments (at intervals and amounts determined by Glenthorne); and
- (c) Balance of the Price to be paid prior to delivery or your collection of the Goods,

before Glenthorne is obliged to carry out the Contract and:

4.2 You may pay using cash or direct deposit to Glenthorne's nominated bank account. If Glenthorne agrees to accept payment by credit card, you agree to bear any additional charges associated with the credit card payment. You also agree to bear any bank transaction charges (if any) that Glenthorne incurs on the direct deposit transaction.

4.3 If you choose to pay by credit card and you provide your credit card details to Glenthorne, you authorise Glenthorne to charge the relevant amount to your nominated credit card.

4.4 If Glenthorne does not receive the payments in accordance with clause 4.1, Glenthorne will not be obliged to carry out the Contract or it will suspend the Contract.

5. Delivery

5.1 Unless Glenthorne agrees otherwise, you must collect the Goods from Glenthorne's premises.

5.2 If Glenthorne agrees to deliver the Goods to an agreed delivery address, you will bear Glenthorne's delivery costs. Additional charges may apply for deliveries outside Glenthorne's trading hours. You also agree to pay for any additional cost that Glenthorne incurs for any re-delivery due to your fault (for example, by providing Glenthorne with incorrect delivery address or instructions). You agree to bear the risk of any damage caused to the Goods, damage to the property of any person or injury caused to any person, caused or contributed by you during the unloading of the Goods at your nominated delivery address.

5.3 Subject to clause 5.2, risk in the Goods passes to you when Glenthorne delivers the Goods to you.

5.4 You must carry out an inspection of the Goods immediately before you take delivery of the Goods. You must promptly report any damage, defect or non-compliance of the Goods to Glenthorne that would be reasonably apparent from the physical examination. Except to the extent of such report, the Goods will be deemed free from damage, defect or non-compliance. when the Goods are delivered to you or on delivery.

6. Delays

6.1 Glenthorne will provide an indicative Delivery Date for the Goods after the Contract is formed or after Glenthorne has received the Deposit.

6.2 Glenthorne will use reasonable endeavours to deliver the Goods on or before the Delivery Date. It will notify you if it becomes aware of any possible delay in the delivery of the Goods.

6.3 Any time or date for delivery given by Glenthorne (including the indicative Delivery Date in clause 6.1) is intended only as an estimate, and may be subject to delays. Glenthorne hereby foreshadows to you that delays in the production of the Goods is highly likely and this will cause delay in Glenthorne's delivery of the Goods to you. You agree that you have entered into the Contract with full knowledge that delays in delivery is highly likely.

6.4 You agree to the following:

- (a) You do not have the right to cancel or terminate the Contract due to delays by Glenthorne, unless the delay is excessive and Glenthorne agrees to the cancellation or termination; and
- (b) Glenthorne will not be liable to you for any loss or damage resulting from late delivery of the Goods.

7. Variations

If at any time before Glenthorne delivers the Goods to you, you have a change of requirements or you request Glenthorne to vary the Goods (whether as to the nature, quality or quantity of the Goods) ("**Proposed Variation**"), Glenthorne may but is under no obligation to accept the Proposed Variation. If Glenthorne agrees to consider the Proposed Variation, it will:

- (a) confirm with you whether the Proposed Variation is feasible and the effect of the Proposed Variation on the Delivery Date and the Price; or
- (b) notify you that the Proposed Variation is not feasible and Glenthorne's reasons.

7.2 Glenthorne is entitled to be paid the agreed amount for performing the Proposed Variation. You must comply with clause 7.1 before Glenthorne is obliged to perform the Proposed Variation.

8. Warranty

8.1 Subject to clauses 8.3 and 8.4, Glenthorne gives the following warranties:

- (a) the Goods supplied will be of acceptable quality ("**Goods Warranty**");
- (b) the Services rendered will not be defective ("**Services Warranty**"); and

	(c) any Goods or part of the Goods that are repaired by Glenthorne will be of acceptable quality (" Repair Warranty ").		description of the used Goods, or their fitness or suitability for any purpose.
8.2	The warranty periods for the warranties in clause 8.1 are as follow: (a) Goods Warranty - 12 months from the date of delivery. (b) Services Warranty - 3 months from Glenthorne's date of completion of the Services; (c) Repair Warranty - 3 months from the date of delivery of the repaired Goods.	10.2	All implied statutory or common law terms, conditions and warranties as to the Goods are excluded to the fullest extent permitted by law. Upon request Glenthorne will give you the opportunity to inspect the Goods. You will be deemed to have carried out a reasonable examination of them before the Contract is made, whether or not you have actually carried out an inspection.
8.3	The warranties in clause 8.3 do not apply in the following situations: (a) Defects or damage to the Goods or Services (as the case may be) which may be caused or partly caused by you or by any other person: (i) accident, misuse, negligence or abuse; (ii) normal wear and tear; (iii) modification, alteration or interference with the Goods without Glenthorne's approval; (iv) failure to properly maintain, store or service the Goods in accordance with Glenthorne's user manual that is available on Glenthorne's website http://glenthornetrailers.com.au or instructions; (v) repairs, servicing, modification or other works carried out on the Goods by a third party without Glenthorne's approval; (vi) incorrect use of the Goods or failure to follow Glenthorne's (or the original manufacturer if relevant) operating guidelines, instructions or manual; or (vii) continued use of the Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user. (b) You have not fully paid for the Goods and/or the Services.	11.	Glenthorne's right to cancel
		11.1	Glenthorne has the right to cancel the Contract before the Goods are delivered if Glenthorne experiences a Force Majeure event or it is unable to deliver the Goods for any reason.
		11.2	If Glenthorne exercises its right under clause 11.1, Glenthorne will refund the deposit to you.
		12.	Not a sale by sample
		12.1	This is not a sale by sample. Any samples, models, descriptions, drawings, advertising materials or showroom models, samples, drawings, or illustrations contained on our website or in our catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They do not form part of the Contract nor have any contractual force.
		13.	Title
			Title in the Goods passes to you from the time Glenthorne receives full payment of the Price and any other monies owing by you to Glenthorne under the Contract.
		14.	Limitation of liability
		14.1	Subject to any warranties which are implied by law and cannot otherwise be excluded, Glenthorne excludes all other conditions, warranties or guarantees or liability in connection with this Contract or Glenthorne's supply of the Goods.
8.4	If you have grounds to believe that the Goods or Services do not comply with the warranties given in clause 8.1, you must (within 3 days) after discovering the alleged defect, notify Glenthorne in writing of the nature of the defect. Glenthorne will investigate and determine the cause of the alleged defect or fault.	14.2	Subject to clause 14.1, to the extent Glenthorne's liability cannot be excluded, Glenthorne's liability will be limited at its option, to one or more of the following: (a) the replacement of the Goods or the supply of equivalent goods; (b) the repair of the Goods; (c) the payment of the cost of replacing the Goods or of acquiring equivalent goods; or (d) the payment of the cost of having the Goods repaired.
8.5	If Glenthorne determines that the alleged defect or fault is under warranty, Glenthorne's liability will be limited, at Glenthorne's option, to one or more of the following: (a) if the breach relates to goods: (i) the replacement of the Goods or the supply of equivalent goods; (ii) the repair of the Goods; (iii) the payment of the cost of replacing the Goods or of acquiring equivalent goods; or (iv) the payment of the cost of having the Goods repaired. (b) if the breach relates to services: (i) the supplying of the Services again; or (ii) the payment of the cost of having the Services supplied again.	14.3	Glenthorne's maximum liability under this Contract (including negligence claims) is capped at the price of the specific Goods that gave rise to your loss or damage.
		14.4	Under no circumstances will Glenthorne be liable to you for any indirect losses, damage to property or injury to persons.
		15.	Indemnity
8.6	Nothing in this clause excludes any warranties or guarantees implied by the Australian Consumer Law.	15.1	You indemnify and hold harmless Glenthorne against any claim, loss, damage or expense (including legal costs on a full indemnity basis) that Glenthorne incurs or suffers as a result of your breach of any term or warranty in this Contract, or any damage to property or personal injury in connection with the use (whether by you or a third party) of the Goods.
9.	Return of Goods	16.	Default on Payment
9.1	Other than a breach of warranty by Glenthorne under clause 8, Glenthorne may but is under no obligation to accept the return of the Goods.	16.1	If you fail to pay Glenthorne in accordance with clause 4.1, without prejudice to any other right or remedy, you will be liable for interest charges on the outstanding amount accrued daily at a rate of 5% per month from the date when the payment was due until the date of payment.
9.2	To avoid doubt, Glenthorne will not accept any return in the following situations: (a) you have changed your mind; (b) if the Goods are customised goods.	16.2	In the event of your default in payment, you further agree to the following: (a) You grant Glenthorne (and Glenthorne's employees, agents or contractors) access to your premises (or to procure access for Glenthorne to the site where the Goods are located) to seize the unpaid Goods; (b) You agree that Glenthorne may do whatever is reasonably necessary for Glenthorne to seize the unpaid Goods (including but not limited to dismantling, disassembling or detaching the unpaid Goods from other goods or equipment to which the unpaid Goods are installed or affixed); (c) You agree to pay all the enforcement costs incurred by Glenthorne and also indemnify and hold Glenthorne harmless against any claims by any third party as a result of Glenthorne's exercise of its right pursuant to this clause 16.2.
9.3	If Glenthorne accepts the return of the Goods, it is conditional upon the following: (a) A discount (as determined by Glenthorne) is applied to the Price; (b) The Goods are returned to Glenthorne's premises at your expense; (c) The Goods are: (i) undamaged; (ii) unsoiled; (iii) in its original condition and appearance (including colour coating); (iv) in a condition which Glenthorne considers satisfactory for resale; (v) subject to any other terms that Glenthorne requires. (d) the Goods were not customised for you; and (e) the Goods have not been used.	16.3	Glenthorne may apply any monies received from you (including any proceeds of sale from the disposal of any Goods that Glenthorne seized from you through enforcement actions) towards any unpaid invoice, Glenthorne's enforcement costs or any other claims against you (e.g. indemnities) in accordance with this Contract, as Glenthorne determines at its absolute discretion.
10.	Used Goods	17.	PPSA
10.1	If the Goods are second-hand or used goods, Glenthorne sells them on an "as is" basis. Glenthorne makes no representations and gives no warranties as to the quality, condition, state or		

- 17.1 If Glenthorne agrees to deliver the Goods on a retention of title arrangement or prior to receiving full payment of the Price, to secure your payment obligations under clause 4, you grant to Glenthorne a Purchase Money Security Interest in the Goods (and in any other goods that Glenthorne supplies to you from time to time). Glenthorne's Security Interest will attach to any Proceeds or any Accessions.
- 17.2 To further secure your payment of the Price, you also grant to Glenthorne a security interest in all your personal property.
- 17.3 Glenthorne may register its Security Interests under this Contract pursuant to the PPSA and you consent to the Registration.
- 17.4 You agree that this Contract constitutes a Security Agreement for the purposes of the PPSA.
- 17.5 You agree to sign any documents and provide necessary assistance and information to Glenthorne to enable Glenthorne to perfect its Security Interest by Registration.
- 17.6 You waive the right to receive notice of any financing statement registered by Glenthorne.
- 17.7 You must not dispose of the Goods to which Glenthorne has a Security Interest other than in the ordinary course of your business.
- 17.8 While Glenthorne retains title to the Goods, you must not subject the Goods to any person's Security Interest or to permit a third party from registering a Security Interest over the Goods, unless you have received Glenthorne's prior written consent.
- 17.9 Glenthorne may apply any amounts that you have paid under this Contract to any of your outstanding invoices in Glenthorne's absolute discretion.

18. General

18.1 Governing Law and Jurisdiction

- (a) The Parties agree that this Contract shall be governed by and construed in accordance with the Laws of Western Australia.
- (b) The Parties submit to the non-exclusive jurisdiction of the courts of Western Australia and any courts which may hear appeals from those courts in respect of any proceedings in connection with this Contract.

18.2 Notices

Any notice shall be given by sending the notice by registered mail, courier, fax or by email to the address of the Party as stated in the Contract or to such other address as such Party may have notified in writing to the other for such purposes.

18.3 Assignment and Subcontracting

Glenthorne may assign or subcontract any or all rights and obligations under this Contract to another person.

18.4 Severability

In the event that any provision of this Contract is declared invalid or unenforceable by any court or body of competent jurisdiction or under any law, regulation or order that may be applied to the Contract as well as for any other reason, such provision shall be void and unenforceable only in this respect and the validity and enforceability of any other provision of this Contract shall not be affected.

18.5 Amendments

Glenthorne may amend, vary or modify these Standard Terms at any time. Any variation will take effect from the date on which Glenthorne gives notice of the variation to you.

18.6 Entire Agreement

This Contract constitutes the entire agreement and understanding of the Parties, and supersedes all prior negotiations, understandings and representations, whether written or oral, of the Parties with respect to the subject matter of this Contract.

18.7 Waiver

The waiver by a Party at any time, for non-compliance by the other Party with a provision of this Contract, shall never be construed as a waiver by such Party of any subsequent execution of that provision or a waiver by such Party of the execution of any other provision of the Contract.

18.8 Further Assurances

Each Party must do all things, and must ensure that its officers, employees or representatives do all things reasonably required of it or them by notice from another Party effectively to carry out and give full effect to this Contract and the rights and obligations of the Parties.

18.9 Counterparts

This Contract may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

18.10 Force Majeure

- (a) Glenthorne is not liable for failure to perform the Contract during the time and to the extent that such performance is prevented, wholly or substantially, by Force Majeure.
- (b) Glenthorne may terminate the Contract by giving a written notice to you if the Glenthorne event continues for more than 60 days. Glenthorne is not liable to you for any loss or damage that you suffered as a result of a Force Majeure event or Glenthorne's termination of the Contract under this clause 18.10(b).
- (c) Upon Glenthorne's termination under clause 18.10(b), you must immediately pay for any Goods that Glenthorne has supplied to you prior to the date of termination.

19. Definitions

For the purposes of this Contract, the following terms in this document have the meanings below:

"Delivery Address" means the address that you nominate for the Goods to be delivered to.

"Delivery Date" means the date of delivery of the Goods as agreed or specified by Glenthorne.

"Force Majeure" means any event or circumstance beyond the reasonable control of a Party including but not limited to acts of God, acts of governments, travel restrictions, wars, riots, strikes, lock-outs, embargos, trade disputes, labour disturbances, breakdown of plant or machinery, accidents, storm, fire, floods, difficulties in obtaining materials, delays caused by manufacturers or any other circumstances affecting the supply of the Goods.

"Goods" mean the goods to be supplied by Glenthorne pursuant to this Contract, including trailers.

"Intellectual Property Rights" means all copyright and analogous rights, all rights in relation to patents, inventions, registered and unregistered trademarks, registered designs, source code, Confidential Information (including trade secrets), know-how, circuit layouts and all other rights throughout the world resulting from intellectual activity in the industrial, scientific or artistic fields.

"Price" means the prices of the Goods.

"Purchase Money Security Interest", "Proceeds", "Register", "Registration", "Security Agreement" and "Security Interest" have the meanings given by the PPSA.

"Services" means any service that Glenthorne performs, including repairs or maintenance of the Goods.

"Standard Terms" means Glenthorne's general terms and conditions of sale in this document.

20. Interpretation

In this Contract, unless the context indicates a contrary intention:

- (a) Headings are for convenience only and do not affect the interpretation of this Contract;
- (b) An obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;
- (c) A reference to "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) A reference to a Party includes that Party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
- (e) A reference to a document (including this Contract) is to that document as varied, novated, ratified or replaced from time to time;
- (f) A reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (g) A word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (h) A reference to a Party, clause, schedule, exhibit, attachment or annexure is a reference to a Party, clause, schedule, exhibit, attachment or annexure to or of this Contract, and a reference to this Contract includes all schedules, exhibits, attachments and annexures to it;
- (i) If a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) "includes" in any form is not a word of limitation;

- (k) The currency for the purposes of this Contract is the Australian dollar (AUD) unless Glenthorne's quote or proposal indicates otherwise.