

EQUIPMENT SALE AGREEMENT

Please note that the definitions in this Agreement are set out in clause 21.

1 Sale of Equipment

SPEE3D agrees to sell the Equipment to the Customer for the Purchase Price and the Customer agrees to acquire the Equipment from SPEE3D and to pay the Purchase Price to SPEE3D in accordance with the payment terms set out in the Quote.

2 Software

2.1 The parties agree that:

- (a) the Equipment Software is incorporated into, and forms part of, the Equipment and the Customer is granted a licence to use the Equipment Software under clause 12.2; and
- (b) the Design Software does not form part of the Equipment and the Customer may, but is not obliged to, enter into a separate agreement with SPEE3D for the use of the Design Software.

2.2 The Customer acknowledges that nothing in the Agreement imposes obligations on SPEE3D to develop, release or install for the Customer any updates, upgrades, patches, bug fixes, new releases or new versions in respect of all or any part of the Equipment Software (**Updates**), provided however that if SPEE3D does develop or release any Updates, it may require that all such Updates be used by the Customer.

3 Payment

3.1 The Purchase Price and any other monies payable under the terms of this Agreement shall be paid by the Customer to SPEE3D within 30 days of the date of any tax invoice issued in accordance with the payment terms set out in the Quote.

3.2 In addition to the Purchase Price, the Customer also agrees to pay SPEE3D:

- (a) the Maintenance Fees and the Training Fees in accordance with clause 8;
- (b) for any Consumables supplied to it by, or on behalf of, SPEE3D in accordance with the terms and conditions upon which SPEE3D agrees to supply the Consumables to the Customer;
- (c) costs, charges, expenses, fees and disbursements (including all reasonable legal costs on a solicitor and client basis) incurred by SPEE3D on a full indemnity basis in respect of any breach, default or repudiation by the Customer of this Agreement or the exercise or attempted exercise by SPEE3D of any right, power or

remedy under or in relation to this Agreement; and

- (d) interest at the Penalty Interest Rate fixed for the time being under section 2 of *Penalty Interest Rates Act 1983* (Victoria) for any amount of the Purchase Price or other amount that is due and payable but outstanding under the terms of this Agreement on a daily basis from and including the due date until the date of actual receipt of payment.

3.3 Subject to clause 4, unless otherwise expressly specified by SPEE3D or in this Agreement, all prices stated are stated exclusive of any tax, levy, duty, charge, impost, fee, deduction, compulsory loan or withholding and the Customer is solely responsible for the payment of all such taxes levied or payable in respect of the Equipment and/or any services provided under this Agreement and must immediately upon request by SPEE3D provide SPEE3D with evidence of payment of any such taxes.

3.4 All amounts payable under this Agreement by the Customer to SPEE3D must be paid free of any abatement, reduction or set-off or any other deduction or withholding.

4 GST

4.1 Expressions used in this clause have the same meaning as those expressions in the GST Act.

4.2 All amounts payable by the Customer in connection with this Agreement do not include an amount for GST unless it is expressly stated in this Agreement to be inclusive of GST.

4.3 If a supply under this Agreement is subject to GST, the recipient must pay to the supplier, at the same time and in the same manner as the consideration is otherwise payable, an additional amount equal to the amount of the consideration multiplied by the applicable GST rate.

4.4 Payment of any additional amount payable under this clause is subject to a valid tax invoice being delivered by the supplier to the recipient.

5 Delivery and Installation of Equipment

5.1 SPEE3D shall:

- (a) use its best endeavours to have the Equipment available for collection or delivery (as applicable) on or before the Delivery Date; and
- (b) notify the Customer as soon as reasonably practicable of becoming aware that the Equipment will not be available for collection or delivery on the Delivery Date

and provide an estimate of when the Equipment will be available.

The Customer acknowledges that the Delivery Date is an estimate only and SPEE3D will not, in any circumstances or for any reason, be liable for late supply of the Equipment.

- 5.2 Subject to the Customer satisfying SPEE3D that it has suitable means of transporting the Equipment to the Site, and at the Customer's cost the Customer may, on the Delivery Date, use such approved means to transport the Equipment to the Site.
- 5.3 If the Customer does not collect the Equipment by the Delivery Date then SPEE3D may charge the Customer a reasonable amount in consideration for storing the Equipment until such time as it is collected by, or otherwise delivered to, the Customer.
- 5.4 If the Customer does not have suitable means of transporting the Equipment as approved by SPEE3D or wishes SPEE3D to arrange for transport of the Equipment to the Site, SPEE3D may charge the Customer for such transportation as well as for loading and unloading of the Equipment.
- 5.5 Where the Customer is transporting the Equipment in accordance with Clause 5.1, the Customer may not load or unload the Equipment except with loading and unloading equipment suitable for that purpose and approved in writing beforehand by SPEE3D and, where required by SPEE3D, under SPEE3D's supervision.
- 5.6 The Customer shall be responsible at its cost for the installation of the Equipment.

6 Warranties

The Customer warrants and agrees that:

- 6.1 the Customer has read and understood the Quote and agrees to any additional provisions contained in the Quote;
- 6.2 the Customer at all times remains responsible for the planning, supervision and control of all operations that involve the Equipment;
- 6.3 in entering into this Agreement the Customer has not relied upon SPEE3D's skill or judgment or any representations made by or on behalf of SPEE3D;
- 6.4 the Customer agrees that the Equipment complies with its description;
- 6.5 the Equipment is of merchantable quality;
- 6.6 it has examined the Equipment and has satisfied itself as to the quality and fitness for purpose for which the Equipment is being acquired;
- 6.7 it has received instructions on the safe operation of the Equipment; and

- 6.8 the Customer uses the Equipment at its own risk.

7 Customer's Use and Obligations

The Customer must, at its own cost and expense:

- 7.1 be responsible for all Operating Costs;
- 7.2 not keep or store the Equipment at any location other than the Site and must, for as long as SPEE3D is providing Maintenance Services, ensure that the Equipment is placed upon level, firm and stable terrain with adequate service access;
- 7.3 only use the Equipment for any purpose and capacity for which it has been specifically designed and not use the Equipment for any other or illegal purpose;
- 7.4 ensure that the Equipment is used only by persons who:
 - (a) unless otherwise agreed in writing by SPEE3D, have received the Training Services; and
 - (b) are otherwise suitably trained and qualified to use the Equipment;
- 7.5 operate the Equipment in accordance with its intended use and in accordance with any manuals, instructions and directions provided to the Customer by SPEE3D;
- 7.6 operate the Equipment in accordance with all applicable laws and regulations (including any health and safety laws) and in accordance with safety and operational information supplied with the Equipment;
- 7.7 obtain and maintain any authorisations required by law or regulation to use the Equipment (including any registration or licence prior to usage of the Equipment);
- 7.8 not alter, adapt, modify, translate, make improvements to, reverse engineer, de-compile, disassemble, copy or tamper with any part of the hardware that accompanies or is part of the Equipment;
- 7.9 without limiting clause 7.8, not alter, adapt, modify, translate, make improvements to, create derivative works based upon, disassemble, decompile, reverse engineer, reduce to any human or machine perceivable form, or circumvent any technological measure that controls access to or permits derivation of the source code of, the Equipment Software or any part thereof; and
- 7.10 not take or permit any other action which could impair SPEE3D's rights, or damage the image or reputation of quality inherent in the Equipment, SPEE3D's business, reputation, intellectual property rights or other assets or rights.

8 Maintenance and Training Services

- 8.1 SPEE3D will, for the period set out in the Quote, undertake and provide to the Customer the Maintenance Services in respect of the Equipment.
- 8.2 In consideration for the provision of the Maintenance Services, the Customer agrees to pay the Maintenance Fees to SPEE3D within 30 days of the date of any tax invoice issued in accordance with the payment terms set out in the Quote.
- 8.3 SPEE3D will provide the Training Services to the Customer as specified in the Quote.
- 8.4 In consideration for the provision of the Training Services, the Customer agrees to pay the Training Fees to SPEE3D within 30 days of the date of any tax invoice issued in accordance with the payment terms set out in the Quote.
- 8.5 SPEE3D will exercise its independent discretion as to the most appropriate and effective manner of providing the Maintenance Services and the Training Services.
- 8.6 SPEE3D may:
- (a) effect any repair to the Equipment that it considers necessary notwithstanding that it may not be part of the Maintenance Services; and
 - (b) use new, second-hand or remanufactured parts in effecting any repair or maintenance on the Equipment.
- 8.7 The Customer must:
- (a) promptly and accurately disclose any information regarding the Equipment that SPEE3D might reasonably request or otherwise need to know in providing the Maintenance Services;
 - (b) promptly provide SPEE3D with all other information, documentation or other details which SPEE3D may request and which SPEE3D may need to know in order to provide the Maintenance Services or Training Services; and
 - (c) provide all reasonable assistance as requested by SPEE3D to enable SPEE3D to perform its obligations under this agreement and to provide any Maintenance Services and Training Services.
- 8.8 SPEE3D may subcontract any of its obligations under this Agreement, including its obligations in respect of the Maintenance Services and the Training Services.
- 8.9 SPEE3D will use its reasonable endeavours to provide the Maintenance Services and Training

Services on any date specified or estimated by SPEE3D or set out in the Quote; however, such dates are estimates only and SPEE3D will not, in any circumstances or for any reason, be liable for late provision of the Maintenance Services or Training Services and later provision of the Maintenance Services or Training Services does not entitle the Customer to terminate this Agreement.

9 Title

- 9.1 Title to, and property in the Equipment remains with SPEE3D and will only pass to the Customer once all moneys owing by the Customer to the Company in respect of the Equipment (including the Purchase Price) have been paid in full.
- 9.2 Until such time as full title, property and ownership of the Equipment passes to the Customer in accordance with clause 9.1, and while the Equipment remains in the Customer's full control and possession:
- (a) the Customer must hold the Equipment as SPEE3D's fiduciary agent and bailee and must not sell, lease, dispose of or otherwise deal with the Equipment in any way without SPEE3D's prior written consent;
 - (b) the Customer must insure the Equipment for its full replacement value and must store the Equipment separately from any other goods and in a way that enables the Equipment to be clearly identified as SPEE3D's;
 - (c) SPEE3D may enter the premises of the Customer or any third party where the Equipment is stored during the hours of 8.00am to 5.00pm to inspect the Equipment and:
 - (i) the Customer expressly authorises and grants SPEE3D and its agents an express, irrevocable licence to enter the premises of the Customer or relevant third party to inspect the Equipment; and
 - (ii) the Customer indemnifies SPEE3D against any Loss that may be incurred or sustained by SPEE3D, its employees or agents, as a result of the entry of those premises where the Equipment is stored;
 - (d) SPEE3D may at any time after payment is overdue require the Customer to deliver up the Equipment to SPEE3D and, if the Customer fails to deliver up the Equipment immediately, SPEE3D may enter the premises of the Customer or any third

party where the Equipment is stored and repossess it and:

- (i) the Customer expressly authorises and grants SPEE3D and its agents an express, irrevocable licence to enter the premises of the Customer or relevant third party to remove or arrange for the removal of the Equipment; and
 - (ii) the Customer indemnifies SPEE3D against any Loss that may be incurred or sustained by SPEE3D, its employees or agents, as a result of the entry of those premises where the Equipment is stored; and
- (e) the Customer must not pledge or grant a security interest in or in any way charge by way of security for any indebtedness, the Equipment for so long as it remains the property of SPEE3D. If the Customer does pledge or in any way charge by way of security, for any indebtedness, the Equipment when property and ownership has not passed to the Customer, the Customer must remove the pledge, charge or security interest immediately and all moneys owing by the Customer to SPEE3D will (without prejudice to any other right or remedy of SPEE3D) immediately become due and payable to SPEE3D.

9.3 Until such time as full title, property and ownership of the Equipment passes to the Customer in accordance with clause 9.1:

- (a) if the Customer loses possession of the Equipment for any reason or a security interest is created over the Equipment (other than by SPEE3D) the Customer must immediately notify SPEE3D of the loss of possession or creation of security interest (as applicable); and
- (b) if an Insolvency Event occurs in respect of the Customer then, without the need for notice or demand by SPEE3D, the Customer acknowledges that any sale or purported sale of the Equipment will not be in the ordinary course of the Customer's business and the proceeds of the Equipment sold in such circumstances will, to the extent of any money owing by the Customer to SPEE3D, be held on trust for SPEE3D by the administrator, controller or similar officer as the case may be, or if there is no such officer, by the Customer.

9.4 The Customer must not remove, deface, change, distort, delete or cover up:

- (a) any names, marks, designs, numbers, code or writing on the Equipment; or
- (b) any patent, copyright or other proprietary notices which appear in writing on or in any part of the Equipment.

10 Risk

Risk in the Equipment transfers to the Customer when the Equipment is collected by the Customer or delivered to the Customer by SPEE3D at the Site and:

- 10.1 the Customer is responsible for arranging, and taking out in its own name and its own cost, any insurance in respect of the Equipment from the time risk passes to the Customer under this clause; and
- 10.2 the Customer indemnifies the Company against any loss or damage to the Equipment, however caused, occurring after the Equipment is collected by the Customer or delivered to the Customer by SPEE3D at the Site.

11 PPSA

- 11.1 This clause applies if the Customer has not paid the Purchase Price in full to SPEE3D prior to the Customer collecting or otherwise taking delivery of the Equipment.
- 11.2 Words and expressions used in this clause 11 which are not defined in this Agreement but are defined in the PPSA have the meaning given to them in the PPSA.
- 11.3 The Customer acknowledges that:
 - (a) the agreement for the sale of Equipment under this Agreement creates a registrable security interest under the PPSA in the Equipment and the proceeds of the Equipment and that it has not agreed to postpone the time for attachment of that security;
 - (b) the security interest created under this Agreement attaches to the Equipment and the proceeds of the Equipment in accordance with the PPSA;
 - (c) value has been given for the creation of the security interest; and
 - (d) where SPEE3D has other enforcement rights in addition to the enforcement rights provided for in the PPSA, those other enforcement rights will continue to apply.
- 11.4 SPEE3D is not obliged to act in any way to dispose of or to retain any Equipment which has been seized by SPEE3D or any person nominated by SPEE3D under its rights under the PPSA.
- 11.5 Without limiting anything else in this Agreement, the Customer consents to SPEE3D effecting a registration on the Personal Property Securities

Register (**PPSR**) in relation to any security interest created by or arising in connection with, or contemplated by, this Agreement, including in relation to the Equipment. The Customer agrees to promptly do all things necessary to ensure that any security interest created under this Agreement is perfected and remains continuously perfected, SPEE3D's priority position is preserved or secured and any defect in any security interest, including registration, is overcome.

- 11.6 The Customer must promptly take all reasonable steps which are prudent for its business under or in relation to the PPSA (including doing anything reasonably requested by SPEE3D for that purpose in relation to the Equipment).
- 11.7 The Customer must indemnify, and on demand reimburse, SPEE3D for all expenses incurred in the enforcement of any rights arising out of any of SPEE3D' security interests.
- 11.8 The Customer must not change its name, address or contact details without providing prior written notice to SPEE3D and must not register a financing change statement or a change demand covering the Equipment without SPEE3D's prior written consent.
- 11.9 The Customer must not without SPEE3D's prior written consent, sell, lease, sublicense, assign, dispose of, create a security interest in, mortgage or part with possession of the Equipment or any interest in it (or purport or attempt to purport to do any of those things) or permit any lien over the Equipment.
- 11.10 The Customer must notify SPEE3D as soon as it becomes aware if any personal property which does not form part of the Equipment becomes an accession to the Equipment or if any of the Equipment is situated outside Australia or, on request by SPEE3D, of the present location or situation of the Equipment.
- 11.11 The Customer must keep full and complete records of the Equipment.
- 11.12 The Customer must authorise SPEE3D to apply any money SPEE3D receives from the Customer towards debts, charges and expenses in any priority SPEE3D determines in its sole discretion for whatever reason, including in order to maintain the security interest created by this Agreement.
- 11.13 The Customer must immediately return the Equipment if requested to do so by SPEE3D following non payment of any amount owing by the purchaser to SPEE3D or following breach of any other obligation to SPEE3D.
- 11.14 To the extent that the PPSA permits, the Customer waives its rights to receive a copy of

any verification statement or financing change statement; to receive any notice required under the PPSA, including notice of a verification statement; to reinstate the security agreement by payment of any amounts owing or by remedy of any default; and under sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 127, 128, 129, 130, 132, 134(2), 135, 136(3), (4) and (5), 137, 142 and 143 of the PPSA.

- 11.15 The Customer may only disclose information or documents, including information of a kind referred to in section 275(1) of the PPSA, if SPEE3D has given prior written consent.

12 Intellectual Property

- 12.1 The parties acknowledge and agree that all Intellectual Property Rights in the Equipment (including in respect of the Equipment Software and any improvements in the Equipment) vests in and exclusively belongs to and are irrevocably assigned to SPEE3D and the Customer agrees that it must not infringe or use the Intellectual Property Rights other than as expressly provided for in this Agreement.
- 12.2 SPEE3D grants to the Customer a non-exclusive, royalty free licence to use all Intellectual Property Rights in the Equipment (including the Equipment Software) solely for the purpose of enabling the Customer to use the Equipment in accordance with this Agreement.
- 12.3 SPEE3D warrants to the Customer that it is the legal and beneficial owner of, or is entitled to use (or will on creation own or be entitled to use) the Intellectual Property Rights in the Equipment which is licensed to the Customer under clause 12.2.
- 12.4 Unless otherwise expressly stated in this Agreement, the parties acknowledge and agree that all Intellectual Property Rights in any material created by the Customer using the Equipment (including the design of any good or product which is designed using the Equipment but not including any improvements in the Equipment) vests in and exclusively belongs to and are irrevocably assigned to the Customer.
- 12.5 The Customer grants SPEE3D a non-exclusive, irrevocable, royalty free licence to use all Intellectual Property Rights in any material created by the Customer using the Equipment solely for:
 - (a) any purposes which SPEE3D considers are ancillary to its provision of the Equipment, the Maintenance Services, the Training Services or as are otherwise necessary for the proper compliance of SPEE3D of its obligations under this Agreement; and

- (b) the purpose of promoting and marketing SPEE3D and the Equipment.
- 12.6 If the Customer becomes aware of any:
- (a) infringement or suspected infringement of the Intellectual Property Rights in the Equipment; or
 - (b) claim that use of the Equipment by the Customer infringes the Intellectual Property Rights of a third party,
- then it must:
- (c) immediately notify SPEE3D in writing of the infringement, suspected infringement or claim;
 - (d) if SPEE3D request, consent to SPEE3D commencing and prosecuting or defending (as relevant) court or other proceedings in respect of the infringement, suspected infringement or claim in its own name or the name of the Customer;
 - (e) sign all deeds, court documents and other documents necessary for SPEE3D to be able to direct and control the commencement and prosecution or defence (as relevant) of the proceedings;
 - (f) provide any other assistance reasonably requested by SPEE3D in respect of the proceedings; and
 - (g) not, without the prior written consent of SPEE3D:
 - (i) make any admission of liability;
 - (ii) provide any witness statement, affidavit or other evidence;
 - (iii) enter into any agreement, settlement or compromise with any person; or
 - (iv) commence any legal, administrative or other proceedings,
 in connection with the infringement, suspected infringement or claim.

13 Limitation of Liability

- 13.1 Nothing in this Agreement should be interpreted as attempting to exclude, restrict or modify the application of any applicable provisions of the Australian Consumer Law or the Customer's rights to make a claim in respect of any consumer guarantees or other provision of the Australian Consumer Law.
- 13.2 Subject to clauses 13.1 and 13.3, the Customer agrees:
- (a) to possess, use and operate the Equipment at its own risk;
 - (b) to the extent permitted by law, that SPEE3D excludes all liability for any Loss incurred by the Customer as a result of this

Agreement including in respect of any Loss to any property of the Customer; and

- (c) to the extent permitted by law, to release and discharge SPEE3D and its agents and employees from all claims and demands upon SPEE3D and any Loss whatsoever caused to the Customer and/or its agents and employees whether by way of death or injury to any person or damage to property, delay, financial loss or otherwise arising directly or indirectly out of or in connection with this Agreement.

13.3 Notwithstanding clause 13.2, if the Customer is a Consumer and the goods or services provided under this Agreement are Non PDH Goods or Services, SPEE3D's liability to the Customer in respect of a breach of a consumer guarantee is limited at the Customer's option to:

- (a) in the case of 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.; and
- (b) in the case of services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

13.4 Notwithstanding or limiting any other provisions under this Agreement and subject to the provisions of the Australian Consumer Law (or any other relevant law for which liability cannot be excluded or limited), the maximum aggregate liability of SPEE3D to the Customer arising out of or in connection with this Agreement will in no event exceed an amount equal to the Purchase Price paid by the Customer to SPEE3D.

13.5 Subject to clauses 13.1 and 13.3, SPEE3D and its representatives will not be liable to the Customer for any indirect, special, incidental, or Consequential Loss incurred by the Customer under or in connection with this Agreement or as a result of the Customer's use of the Equipment, even if SPEE3D and its representatives have been advised of the possibility of such Consequential Loss being incurred. For the purposes of this clause, 'Consequential Loss' includes indirect loss, loss of revenues, loss of reputation, loss of profits, loss of data, additional expenses, loss of actual or anticipated savings, loss of bargain and loss of opportunity.

14 Indemnity

- 14.1 The Customer, to the extent permitted by law, agrees to indemnify SPEE3D (and all its related bodies corporate (as defined in the *Corporations Act 2001* (Cth)), and each of its officers, employees, subcontractors and agents) (**Indemnified Parties**) in respect of any Loss suffered or incurred by an Indemnified Party which arises from or in respect of:
- (a) recovering any amounts the Customer owes to SPEE3D (including any fees paid to a debt collector, mercantile agent or similar);
 - (b) any breach by the Customer of any of its obligations under this Agreement;
 - (c) any claim by a third party that any material created by the Customer using the Equipment or Design Software (including the design of any good or product which is designed using the Equipment or Design Software) infringes the Intellectual Property Rights of that third party or breaches any law or regulation; and
 - (d) loss of, or damage to, any real or personal property owned, leased, licensed or controlled by SPEE3D, or any real or personal property of any third party, caused by, arising out of, or in connection with this Agreement or any activity for which the Customer is directly or indirectly responsible;
 - (e) personal injury (which includes illness) or death of any person caused by, arising out of, or in connection with this Agreement and for which the Customer is directly or indirectly responsible; and
 - (f) any negligent, or wilful acts or omission, theft, misconduct, dishonesty or fraud committed by the Customer, its officers, directors, employees, agents, representatives, delegates or contractors.
- 14.2 The Customer's liability to indemnify SPEE3D under clause 14.1 will be reduced to the extent that any negligent or unlawful act or omission of, or wilful misconduct on the part of, SPEE3D (including its officers and employees) contributed to the relevant Loss.

15 Specifications

- 15.1 Where any instructions, materials or information in whatever form are required to be provided by the Customer to SPEE3D before SPEE3D can proceed with or complete the manufacture of the Equipment such instructions, materials or information must be supplied in writing by the Customer to SPEE3D within a reasonable time (as determined by SPEE3D) so as to enable SPEE3D to manufacture and deliver the Equipment.

- 15.2 SPEE3D will only be required to make any change to the specifications, dimensions or other particulars of the Equipment which the Customer requests if:
- (a) the Customer has provided details of the requested change in writing; and
 - (b) SPEE3D has agreed in writing to make that change.
- 15.3 SPEE3D may make changes to the specifications, dimensions or other particulars of the Equipment as may be required from time to time by law or any safety or manufacturing requirements.
- 15.4 The Customer acknowledges that SPEE3D has entered into this Agreement on the basis of, and in reliance upon, any information, specifications, data, representations, statements and documents provided by the Customer.

16 Notification of claims

The Customer must notify SPEE3D immediately if it becomes aware of:

- 16.1 any claim; or
- 16.2 any death, serious injury or serious illness, in respect of, or caused by, the Equipment or other goods which are created by the Customer using the Equipment or Design Software and the Customer will take all reasonable steps to mitigate any Loss arising as a consequence of the claim, death, serious injury or serious illness.

17 Confidentiality

- (a) Subject to clause 17(b), the Customer must:
 - (i) keep confidential, and not disclose, all Confidential Information;
 - (ii) not, without the prior written consent of SPEE3D or as expressly permitted in this Agreement, copy, write down or otherwise record any part of the Confidential Information;
 - (iii) take all precautions necessary to prevent unauthorised persons from obtaining access to the Confidential Information by any direct or indirect means;
 - (iv) use the Confidential Information solely for its own internal business purposes and not for any other purpose including (without limitation) use for its own advantage or use to the disadvantage of SPEE3D;
 - (v) be responsible and liable for the actions of its employees, contractors, agents or related bodies corporate who have access to the Confidential Information;

- (vi) be responsible for the use of the Confidential Information by another where the Confidential Information was released by the Customer or released, improperly used or improperly obtained by any person which obtained the Confidential Information from the Customer; and
 - (vii) immediately upon request by SPEE3D, return to SPEE3D or destroy (at the election of SPEE3D) all documents and other material containing the Confidential Information which are in the possession or control of the Customer.
- (b) The Customer may disclose Confidential Information only to:
- (i) employees who:
 - (A) are aware and agree that the Confidential Information must be kept confidential; and
 - (B) either have a need to know the Confidential Information (and only to the extent that each has a need to know), or have been specifically approved by SPEE3D;
 - (ii) as required by law or securities exchange regulation; or
 - (iii) with the prior written consent of SPEE3D.

- 17.2 The Customer must notify SPEE3D immediately once it becomes aware of any breach of confidentiality in respect of the Confidential Information and must take all reasonable steps necessary to prevent further unauthorised use or disclosure of the Confidential Information.
- 17.3 The Customer agrees that, for the purposes of promoting and marketing SPEE3D and the Equipment, SPEE3D is entitled to notify others of SPEE3D's relationship with the Customer and the Customer's use of the Equipment.

18 Force Majeure

- 18.1 SPEE3D will not be liable for any failure to perform or delay in performing its obligations under the Agreement if that failure or delay is due to a Force Majeure Event.
- 18.2 If a Force Majeure Event under clause 18.1 exceeds 20 Business Days, SPEE3D may immediately terminate this Agreement by written notice to the Customer.

19 Default and Termination

- 19.1 Each of the following events is an "Event of Default" under this Agreement:
- (a) the Customer fails to pay the Purchase Price or any other amount payable to

SPEE3D under this Agreement (including any Maintenance Fees or Training Fees) by the relevant due date and the default continues for more than three Business Days;

- (b) the Customer fails to observe or perform any of the terms and conditions under this Agreement on its part to be observed or performed (other than its payment obligations) and, if capable of remedy, this failure or default continues for more than 5 Business Days after notice from SPEE3D to remedy the default;
 - (c) the Customer has made any false, inaccurate or misleading statement (including any warranty or statement in this Agreement) having a material effect in relation to SPEE3D's decision to enter into this Agreement;
 - (d) the Customer is subject to an Insolvency Event.
- 19.2 If an Event of Default occurs, SPEE3D at its option may do any one or more of the following:
- (a) enforce performance by the Customer of the applicable terms and provisions of this Agreement;
 - (b) recover damages for the breach concerned; and
 - (c) immediately terminate this Agreement by notice in writing to the Customer.
- 19.3 Upon service of any notice in accordance with clause 19.2(c):
- (a) all monies owed by the Customer to SPEE3D shall become immediately due and payable; and
 - (b) the Customer must not sell or part with possession of the Equipment unless the Purchase Price and any other amounts due under this Agreement have been paid in full.

- 19.4 The termination or expiry of this Agreement does not operate to terminate any rights or obligations under this Agreement that by their nature are intended to survive termination or expiration, and those rights or obligations remain in full force and binding on the party concerned including without limitation the rights and obligations under clauses 3.2, 3.3, 4, 9, 10, 6, 11, 12, 13, 14, 16, 17, 19, 20 and 21.

20 General

- 20.1 No clause of this Agreement attempts to exclude or limit, or have the effect of excluding or limiting, the operation of sections 47B(3), 47C, 47D, 47E or 47F of the *Copyright Act 1968* (Cth). Any

- clause of this Agreement which is inconsistent with these provisions will be read down or otherwise varied to the extent necessary to preserve the operation of the relevant clause.
- 20.2 The relationship of SPEE3D and Customer established by this Agreement is that of independent contractors.
- 20.3 The United Nations Convention on the International Sale of Goods (the Vienna Convention) will not apply to this Agreement or the subject matter hereof.
- 20.4 Any notice or demand will be deemed to be given or made in the case if it is in writing and left or sent by pre-paid post or email to the party at its address stated in the Quote or any other address which the party whose address it is notifies the other part of in writing. Any notice or demand:
- (a) delivered to the address of that party will be deemed to have been received upon actual delivery;
 - (b) sent by post will be deemed to have been received by the party to whom it is addressed on the day which in the normal course of post it would have been delivered; and
 - (c) sent by email to the email address of that party will be deemed to have been received one hour after the email is sent (unless the sender knows that the email has failed to send).
- 20.5 The Customer may not assign, transfer or novate its rights or obligations under this Agreement without the prior written consent of SPEE3D.
- 20.6 Time is of the essence in relation to the Customer's obligations under this Agreement.
- 20.7 No failure or delay on the part of SPEE3D to exercise any right or power under this Agreement shall operate as a waiver of that right or power. SPEE3D shall only be taken to have waived a right or power if it has expressly done so in writing signed by a director and a waiver of one right or power shall not be deemed to be a waiver of other rights or powers.
- 20.8 None of the terms of this Agreement, nor any act, matter or thing done under or in connection with or by virtue of this Agreement will operate as a merger of any rights and remedies of SPEE3D under this Agreement or otherwise and all such rights and remedies shall continue in full force and effect.
- 20.9 If any provision of this Agreement is found to be void or unenforceable the remaining provisions shall remain in full force and effect. Any void or unenforceable provision shall be replaced by a provision that achieves as far as possible the

economic effect of the void or unenforceable provision was intended to achieve.

- 20.10 This Agreement may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same document.
- 20.11 This Agreement shall be construed in accordance with the laws of the Northern Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Northern Territory and the Federal Court of Australia.

21 Definitions and Interpretation

21.1 In this Agreement:

- (a) **Agreement** means this Equipment Sale Agreement and the Quote.
- (b) **Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010 (Cth)* and any equivalent State or Territory legislation.
- (c) **Business Day** means any day except a Saturday, Sunday or public holiday in the Northern Territory or Victoria, Australia.
- (d) **Confidential Information** means all information (regardless of form) and other content disclosed to or acquired by the Customer regarding:
 - (i) SPEE3D or SPEE3D's business affairs including information relating to SPEE3D's financial affairs, projections, forecasts, accounts, prospects, strategies, business processes and system functionality, business operations, assets, liabilities, suppliers, personnel, contracts, clients, products and stock and sales information;
 - (ii) the Equipment; or
 - (iii) the terms of this Agreement or any other agreements between the Customer and SPEE3D,
 but does not include any information that:
 - (iv) is public knowledge or becomes available to the Customer from a source other than SPEE3D (otherwise than as a result of a breach of confidentiality); or
 - (v) is rightfully known and became known to the Customer independently from any agreement with SPEE3D.
- (e) **Consumables** means any consumable which is used as part of, with, or in the Equipment, including any metal powder.

- (f) **Consumer** has the same meaning provided to it in section 3 of the Australian Consumer Law.
- (g) **Customer** means the customer specified in the Quote.
- (h) **Delivery Date** means the date set out in Quote or such other date as notified by SPEE3D to the Customer under clause 5.1(b).
- (i) **Design Software** means software which enables the user of that software to convert the design for products into a format which is compatible with the Equipment and which SPEE3D may provide to the Customer under a separate licence.
- (j) **Equipment** means the 3D printing machine as further described in the Quote and includes:
- (i) the Equipment Software;
 - (ii) all accessories and other equipment; and
 - (iii) any log books, manuals, maintenance records of the equipment,
- provided by SPEE3D to the Customer as part of this Agreement.
- (k) **Equipment Software** means the software program which is incorporated into, and forms part of, the Equipment but does not include the Design Software.
- (l) **Event of Default** has the meaning given to it in clause 19.1.
- (m) **Force Majeure Event** means any event arising from, or attributable to, acts, events, omissions or accidents which are beyond the reasonable control of a party.
- (n) **GST** has the same meaning as in the GST Act.
- (o) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- (p) **Insolvency Event** means, in relation to a body corporate, a liquidation or winding up or the appointment of a voluntary administrator, receiver, manager or similar insolvency administrator to that body corporate or any substantial part of its assets; in relation to an individual or partnership, the act of bankruptcy, or entering into a scheme or arrangement with creditors; in relation to a trust, the making of an application or order in any court for accounts to be taken in respect of the trust or for any property of the trust to be brought into court or administered by the court under its control; or the occurrence of any event that has substantially the same effect to any of the preceding events.
- (q) **Intellectual Property Rights** means all rights in relation to patents, copyright, registered designs, devices, registered and unregistered trade marks, trade secrets, know-how and confidential information, and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967.
- (r) **Loss** includes any damage, loss, cost, expense or liability of any kind incurred by the person concerned, however it arises and whether it is direct or indirect, present or future, fixed or unascertained, actual or contingent including (without limitation) indirect or consequential loss.
- (s) **Maintenance Fees** means the fees payable by the Customer under this Agreement for the provision of the Maintenance Services as set out in the Quote.
- (t) **Maintenance Services** means the maintenance and servicing of the Equipment to be undertaken by SPEE3D as specified in the Quote.
- (u) **Non PDH Goods or Services** means goods or services which, for the purposes of the Australian Consumer Law, are not of a kind ordinarily acquired for personal, domestic or household use or consumption.
- (v) **Operating Costs** means all costs or expenses necessary to operate the Equipment.
- (w) **PPSA** means the *Personal Property Securities Act 2009* (Cth).
- (x) **Quote** means the quote or proposal prepared by SPEE3D which is attached to this Agreement as Annexure A.
- (y) **Purchase Price** means the price payable by the Customer under this Agreement for the Equipment as set out in the Quote.
- (z) **Site** means the premises or address set out in the Quote.
- (aa) **SPEE3D** means SPEE3D Pty Ltd (ACN 623 258 131).
- (bb) **Training Fees** means the fees payable by the Customer under this Agreement for the provision of the Training Services as set out in the Quote.

- (cc) **Training Services** means the training services in respect of the use and operation of the Equipment to be provided by SPEE3D as specified in the Quote.

21.2 In this Agreement:

- (a) headings are inserted for convenience only and do not affect the interpretation of this Agreement;
- (b) the singular includes the plural and vice versa and a gender includes the other gender;
- (c) the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example', 'such as' or similar expressions;
- (d) a reference to a law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) a reference to a party or a person includes the party's or the person's executors, legal personal representatives, successors, permitted transferees and assigns;
- (f) a reference to a person includes an individual, a partnership, a corporation or other corporate body, a joint venture, a firm, a trust, an association (whether incorporated or not), a government and a government authority or agency;
- (g) no provision of this Agreement will be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement; and
- (h) unless otherwise provided, all monetary amounts are in Australian dollars and a reference to payment means payment in Australian dollars.

Signing page

Date:

EXECUTED by **SPEE3D PTY LTD** in accordance with the *Corporations Act 2001* (Cth) by being signed by the following officers:

.....
Signature of director

.....
Signature of director/company secretary

.....
Name of director *(please print)*

.....
Name of director/company secretary
(please print)

EXECUTED by **CUSTOMER** by its duly authorised representative:

.....
Signature of authorised representative

.....
Signature of witness

.....
Name of authorised representative *(please print)*

.....
Name of witness *(please print)*

Annexure A
Quote