1. Formation of Agreement

1.1 This Agreement consists of:

(a) the Quote;

(b) these General Conditions;

(c) the Warranty Terms;

(d) Privacy Policy; and

(e) any other Annexure to the Quote.

1.2 This Agreement is the entire contract between Cora and the Customer and supersedes the terms on any Customer's purchase order which are inconsistent with these terms.

1.3 The Customer may insert special conditions, but these will not be binding on Cora unless accepted in writing by Cora.

1.4 The Customer and the Guarantors can accept the terms of this Agreement by: placing an order for any Goods and/or Services, and/or taking or accepting a Supply, whether or not the Customer acknowledges or signs these General Conditions.

2. Orders

2.1 Cora may accept or reject any order for any reason.

2.2 The Customer remains liable to Cora notwithstanding that the Goods and/or Services may be provided by Cora to a third party at the direction of the Customer.

3. Supply of Goods and/or Services

3.1 Goods Supplied by Cora will be of merchantable quality and be fit for the purpose advised to Cora in writing, or which is implicit from the nature of the Goods, and the Services Supplied by Cora will be performed in a proper and workman like manner.

3.2 If, during the course of making a Supply to the Customer, Cora discovers problems which were not found at first instance and which require additional Goods and/or additional Services, the Customer agrees to meet the cost of those additional Goods and/or Services at Cora's then prevailing costs, rates, and charges.

3.3 All plans, drawings, dimensions, and quantities submitted by Cora with any Quote are approximate and are not to be used for construction purposes. The Customer agrees to check all plans, drawings, dimensions, quantities, and other specifications submitted by Cora prior to installation and Cora will not be responsible for any loss, damage, or delay which may result from the Customer's failure to check such documentation or specification.

3.4 Cora reserves the right, at any time for any reason, to suspend or discontinue the Supply without penalty. If Cora is unable to Supply all the Goods and/or Services ordered, these General Conditions will continue to apply to any part of the Supply.

4. Supply of Information

4.1 The Customer shall provide to Cora all information required, and access to the Customer's premises, for Cora, or a Carrier, as appropriate, to supply the Goods and/or Services.

4.2 The Supply need not be commenced by Cora until all information has been provided to Cora. If the Customer fails to provide such information to Cora for a period in excess of thirty (30) days, such failure may be treated by Cora as a breach and a repudiation of this Agreement.

4.3 The Customer warrants that any information it supplies to Cora is true and correct and agrees to indemnify Cora against any loss or damage resulting from any incorrect information or any delay in providing such information.

4.4 Any delay in providing such information will result in a corresponding extension of time for Cora to supply the Goods and/or Services.

4.5 The Customer acknowledges that Cora:

(a) bases its layout, drawings, or dimensions on the information provided by the Customer; and

(b) accepts no responsibility if those layout, drawings, or dimensions are incorrect due to incorrect information.

5. Price

5.1 The Customer agrees to pay the price specified in this Agreement in accordance with Cora's Invoice, unless Cora has provided the Customer with a credit facility.

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5.2 If no price is specified in respect of a Supply or if the Quote is in excess of ninety (90) days old, the Customer shall pay in accordance with Cora's prevailing costs, rates, and charges.

5.3 The Supply includes time spent consulting with the Customer, telephone calls, meeting and preparation time, time for travel, and any other time attributable to the Supply.

5.4 At the date of this Agreement by Cora:

(a) if Cora has the Goods specified in this Agreement in stock, the quoted price of such Goods shall not be subject to change; and

(b) if parts for any Goods, or Goods themselves, specified in this Agreement are not in stock, then the quoted price of such Goods is subject to increase in proportion to any increase in the price payable by Cora to its Goods supplier.

5.5 Any Goods specifically manufactured for the Customer and/or an order valued at $5,000.00 or more are subject to a 35% deposit. The balance is payable in accordance with Cora's Invoice.

6. Payment & Enforcement Expenses

6.1 Cora shall provide an Invoice in respect of the Supply.

6.2 Cora may correct errors in Invoices after issue and the Customer is liable to pay any adjusted amount within thirty (30) days after notification of that adjustment.

6.3 Unless otherwise agreed expressly in writing, the Customer must pay:

(a) Invoices made within seven (7) days of the date of the Invoice;

(b) any duty and any government charges payable in respect of this Agreement.

(c) Interest on overdue amounts;

(d) an administrative fee of $25.00 for each reminder sent by Cora seeking payment of an overdue amount;

(e) compensation for all loss of profits and consequential damage suffered as a consequence of the Customer's breach of this Agreement; and

(f) all the costs of and incidental to:

(i) the recovery of unpaid Invoices;

(ii) the sale of Goods in the event of failure to collect the Goods; and

(iii) any amounts due by the Customer to Cora as a result of a breach of this Agreement,

… on a full indemnity basis, including the charges of any mercantile or collection agents or solicitors appointed by Cora to recover unpaid amounts.

6.4 The Customer must advise Cora in writing of any disputed Invoice or account within seven (7) days of the date of delivery of the Goods and/or performing of the Services, otherwise the Customer is deemed to have accepted the charges as correct and will be bound thereby.

6.5 Payment may be made by electronic funds transfer.

7. Delivery, Risk, Returns, & Cancellations

7.1 Delivery is deemed to be effected at the earlier of: the time when the Customer takes possession of the Goods and the time when the Goods leave the Warehouse. From that moment, the Goods are at the Customer's risk.

7.2 Cora takes no responsibility for Goods which are lost or damaged in transit. Insurance for Goods in transit is not included in the price of the Supply. If insurance is required, it must be arranged by the Customer either directly with the Carrier or by the Customer itself.

7.3 Subject to the location of the Delivery Site, in stock Goods are normally delivered within seven (7) to fourteen (14) business days after receipt of an order. Out of stock Goods and made-to-order Goods may take approximately twelve (12) to fourteen (14) weeks.

7.4 Subject to stock availability, Cora will make reasonable efforts to comply with requested dates for delivery, but does not guarantee dates of delivery.

7.5 The Customer must ensure its ability to take delivery of the Goods on or before the Delivery Date.

7.6 All deliveries are made to kerbside or dock of the Delivery Site only. The Customer must:

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(a) provide sufficient labour and equipment to unload and position the Goods at the Delivery Site at its expense;

(b) inspect the Goods; and

(c) sign any delivery receipt required by the Carrier, which shall constitute acceptance of the Supply by the Customer.

7.7 If the Goods are delivered on Chep pallets, the Chep pallets need to be returned to the driver on the day of delivery. If the Chep pallets cannot be exchanged on the day of delivery, the Customer is liable for ongoing hire costs and pick up costs associated with each Chep pallet.

7.8 If the Customer fails to accept delivery of the Goods in accordance with this Agreement on the later of the Delivery Date or seven (7) days after receiving notice that the Goods are ready for delivery, then:

(a) the Customer:

(i) remains bound by the payment terms in this Agreement and responsible for all charges related to that delivery and any subsequent re-deliveries of that order; and

(ii) must reimburse Cora on demand for all storage charges incurred by Cora thereafter from the Carrier;

… and

(b) Cora may:

(i) withhold delivery of the Supply until all storage charges are paid; and/or

(ii) sell the Goods and apply the proceeds of the sale in satisfaction of any outstanding money owed to Cora by the Customer without the need to advise the Customer and all monies still outstanding after any such sale are still payable by the Customer; and/or

(iii) sue for damages.

7.9 If Cora elects to sell the Goods pursuant to sub-paragraph 7.8(b)(ii):

(a) Cora shall make reasonable efforts to sell the Goods for their market value; and

(b) any monies in excess of the outstanding debt shall be held in trust for the Customer and will be sent to the last known address of the Customer.

7.10 Return of Goods and/or cancellation of an order are in the absolute discretion of Cora as to the terms and conditions relating to any such permitted return or cancellation.

8. Retention of Ownership & Personal Property Securities Act

8.1 Ownership of the Goods supplied does not vest in the Customer until all money due from the Customer, including all other prior agreements between Cora and the Customer, is paid in full, and reverts to Cora if any money is subsequently owed by the Customer to Cora in the future.

8.2 If the Customer obtains possession of Goods before ownership passes to the Customer, the Customer holds that Goods as bailee for Cora and shall surrender the Goods to Cora on demand.

8.3 If any Invoices are not paid by the due date, the Customer hereby irrevocably authorises Cora, its officers, employees, and agents to enter upon the premises of the Customer, or such premises where the Goods may be found, for the purpose of retaking possession of and, if necessary, removing the Goods from the Customer's premises. Cora shall not be responsible to the Customer for any damage reasonably incurred by Cora removing Goods from any premises, and the Customer shall indemnify Cora in relation to any claims made against Cora in relation to the removal of the Goods.

8.4 Cora reserves the right to register its interests in the Goods on the PPSR and the Customer shall provide any information reasonably requested by Cora in that regard.

8.5 The Customer grants to Cora a PMSI in the Goods.

8.6 If any Goods become an accession to other property or become part of another product or mass, then:

(a) Cora's security interest continues in that other property, product, or mass; and

(b) references to the Goods in this clause 8 include the other property, product, or mass.

8.7 The Customer consents to Cora perfecting any security interest that it considers this document provides for by registration under the PPSA. The Customer agrees to do anything Cora reasonably asks to ensure that the security interest:

(a) is enforceable, perfected, and otherwise effective; and

(b) has priority over all other security interests in respect of the Goods.

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8.8 To the extent the law permits, the Customer waives its right to receive any notice (including notice of a verification statement) that is required by the PPSA. However, this does not prevent Cora from giving a notice under the PPSA.

8.9 The Customer agrees not to exercise its rights to make any request of Cora under section 275 of the PPSA. However this does not limit the Customer's rights to request information other than under section 275.

8.10 Cora hereby contracts out of all the provisions referred to in sub-section 115(1) of the PPSA and the Customer may not exercise any rights under any of those provisions.

8.11 If Cora exercises a right, power, or remedy in connection with this document or a security interest that it provides for, that exercise is taken not to be an exercise of a right, power or remedy under the PPSA unless Cora states otherwise at the time of exercise. However, this clause does not apply to a right, power or remedy which can only be exercised under the PPSA.

8.12 Neither the Customer nor Cora will disclose any information of the kind mentioned in section 275(1) of the PPSA, except where disclosure is required by section 275(7). The Customer will not authorise the disclosure of any information under that section or waive any duty of confidence that would otherwise permit non-disclosure under that section.

9. Installation

9.1 Cora does not provide installation Services for the Goods.

9.2 Cora accepts no responsibility for an installation arranged by the Customer.

9.3 Any installation must be carried out in accordance with Cora's or the manufacturer's installation instructions.

10. Force Majeure

If Cora is prevented from:

(a) performing any of the services under this Agreement; or

(b) delivering any Goods; or

(c) procuring materials or components from its usual sources of supply,

… by reason of any event beyond Cora's control including but not limited to pandemic, quarantine restrictions, vehicle breakdown, traffic delays, strike, lockout, riot, industrial action, fire, storm, tempest, act of God, material shortage, embargo, litigation, Court Orders, civil strife, flood, and government law or regulation or requirement, Cora shall be entitled, at its own option, to:

(d) delay the Supply; or

(e) terminate this Agreement,

… and the Customer will have no entitlement to recover any loss or damage as a result of such delay or termination.

11. Warranties, Representations, and Limitation of Liability

11.1 *Customer's Obligations*

(a) The Customer is responsible for:

(i) determining that the Goods are suitable for the purposes for which the Goods are required; and

(ii) carefully examining the Goods for defects that a careful examination ought to reveal.

(b) The Customer must reasonably co-operate with Cora's investigations in relation to allegedly defective Goods, including by providing all information reasonably requested by Cora, and allowing Cora access to inspect relevant Goods.

(c) Defective Goods must be returned to Cora for repair or replacement at the Customer's cost, including, but not limited to:

(i) returning the Goods to Cora;

(ii) returning the repaired or replaced Goods to the Customer; and

(iii) any other costs associated with the return of the Goods.

(d) On site repairs will incur travel and labour charges, at Cora's then prevailing costs, rates, and charges.

11.2 *Specific Goods Warranties*

(a) Subject to compliance with all relevant installation specifications for the Goods, Cora warrants its:

(i) static bicycle rack and e-charging Goods to be free from defects in material and workmanship for a period of five (5) years after Supply; and

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(ii) bicycle lockers, dynamic bike racks, and bicycle maintenance Goods for a period of two (2) years after Supply.

(b) Cora's dynamic bike rack Goods warranty includes, but is not limited to, the following:

(i) mechanical failures of dynamic moving parts; and

(ii) faulty operation of gas assist struts.

(c) Cora's bicycle locker Goods warranty includes, but is not limited to, the following:

(i) structural failures including, but not limited to, excessive top or wall panel deflection;

(ii) faulty operation of doors, locks, and access hardware due to poor workmanship; and

(iii) deterioration of shell materials, metals, finishes, and other materials beyond normal weathering.

(d) Cora's bicycle maintenance Goods warranty includes, but is not limited to, the following:

(i) mechanical failures of the bicycle tyre pump; and

(ii) structural failures of the bicycle maintenance stand.

(e) Cora will repair or replace, at Cora's option, any Goods or part thereof which it determines to contain defective material and workmanship.

11.3 *Exclusions & Limitations*

(a) Cora's warranties do not extend to fault or failure caused by:

(i) collision with the Goods resulting in damage; or

(ii) fair wear and tear; or

(iii) negligent or incorrect use of the Goods; or

(iv) Acts of God, terrorism, accidental damage, maltreatment, negligence, vandalism, or interference with the Goods; or

(v) installation other than in accordance with Cora's or the manufacturer's installation instructions.

(b) Cora's warranties do not extend to:

(i) an alleged defect in relation to Goods in respect of which industry tolerances are met or exceeded in relation to that alleged defect; or

(ii) reasonable light and dark tolerance variations to colour and shade.

(c) Replacement of Goods by Cora does not extend the original warranty period.

(d) Cora will not accept returned Goods that:

(i) are a special design or for which pieces are cut specifically as ordered by the Customer; and/or

(ii) are damaged after delivery; and/or

(iii) are not in their original containers/packing; and/or

(iv) were initially supplied to the Customer expressly on a no return basis.

(e) Whether the Goods are damaged or soiled will be determined by Cora in its sole discretion reasonably exercised.

(f) Any warranty or guarantee given, and which cannot be excluded by Law, is personal to the Customer and shall be void if there is a change of ownership, or tenancy, of the land upon which the Goods are installed.

(g) Other than as specified in clauses 3.1 and 11.2, Cora does not give, and no person purporting to act with the authority of Cora has given, any condition, warranty, or representation whatsoever in favour of the Customer as to the condition or quality of any Supply.

(h) Cora's liability to the Customer is limited to the value of the Supply in relation to compensation paid to the Customer.

(i) Cora is not be liable for, and the Customer releases and discharges Cora from, any loss or damage whatsoever and whenever caused to the Customer or its agents or employees, in relation to, special, indirect or consequential damages, loss of profit, goodwill, revenue or loss of anticipated saving or loss, whether by way of death of, or injury to, any person of any nature or kind, accident or damage to property, delay, financial loss or otherwise, arising directly or indirectly from or incidental to a breakdown of, or defect in, the Goods and/or the Services or any accident to or involving the Goods and/or the Services (whether occasioned by the negligence of Cora or otherwise) or which may otherwise be suffered or sustained as a result of the Goods and/or the Services or as a

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result of a breach of the terms of this Agreement by it or as a result of a breach of duty of care or negligence arising at law.

11.4 *Supplies Covered by the ACL*

Notwithstanding the provisions of clauses 11.1 to 11.3, in relation to transactions that **are** covered by the ACL:

(a) Cora's Goods and Services come with guarantees that cannot be excluded under the ACL.

(b) The Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. The Customer is also entitled to have the Goods resupplied or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.

(c) The Customer is entitled to have the Services provided again or have any defects remedied if the original Services are not provided in a proper and workmanlike manner. The Customer is entitled to a refund for a major failure and compensation for any other reasonably foreseeable loss or damage.

(d) In addition to other rights and remedies of the Customer under the ACL:

(i) Cora warrants:

(A) its Goods in accordance with the Warranty Terms; and

(B) its Services for twelve (12) months.

(ii) The Customer must seek a remedy under the warranties in this clause 11.4 in writing to Cora within five (5) business days of the fault becoming apparent.

(iii) Each party shall be responsible for their own costs associated with making a claim pursuant to this clause 11.4.

(e) Where the transaction is for a Supply other than of a kind ordinarily acquired for personal, domestic, or household use or consumption, e.g. a supply for business purposes, Cora's liability is limited:

(i) in the case of Services - to any one or both of the following at the option of Cora:

(A) the Supplying of the Services again; and

(B) the payment of the cost of having the Services Supplied again; or

(ii) in the case of Goods - to any one or both of the following at the option of Cora:

(A) the replacement of the Goods or the Supply of equivalent Goods, or

(B) the repair of the Goods; or

(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.

12. Guarantee

12.1 In consideration of Cora, at the request of the Guarantors, entering into this Agreement, the Guarantors jointly and severally guarantee to Cora the performance by the Customer of its obligation under the Agreement and the General Conditions, including the payment of all monies due by the Customer to Cora.

12.2 The Guarantors are bound jointly and severally as guarantors for all liability of the Customer to Cora, and they remain bound notwithstanding:

(a) any variation of this Agreement;

(b) any extension of time or other concession, variation, or release of any kind by Cora in relation to the monies due;

(c) any failure to enforce the General Conditions, or any other rights;

(d) any release of the Customer or any co-guarantor (in full or part) for any reason; or

(e) any failure by any party to execute this document properly, or at all.

12.3 As a separate liability and obligation, the Guarantors (jointly and severally if more than one) indemnify Cora from all actions, claims, demands, notices, losses, damages, costs, and expenses, of any nature whatsoever, suffered or incurred by Cora by reason of any breach or non-performance by the Customer of any of the terms or conditions of this Agreement.

12.4 This is a continuing guarantee and indemnity in respect of all of the Customer's debts, liabilities, and obligations to Cora and in respect of every transaction by the Customer with Cora from time to time.

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12.5 This indemnity, and the guarantee, is not affected or discharged by the insolvency, liquidation or bankruptcy of the Customer, or the release from liability for any reason of the Customer, any Guarantor or any other person, or any act or omission, or incapacity of any person, or any event or circumstance that might otherwise have the effect of discharging their liability under this guarantee and indemnity, whether as Customer, Guarantor, indemnifier, principal debtor or otherwise.

13. Privacy

13.1 The Customer and the Guarantors agree and acknowledge that Cora may utilise any information previously provided to it by the Customer and any information which the Customer provides pursuant to the General Conditions or subsequently hereto to investigate the credit-worthiness of the Customer, including making enquiries to credit reference organisations, banks and financial institutions, the Customer's trade referees, bankers and credit providers and the Customer authorises each such person to disclose to Cora all such information in their possession concerning the Customer that is requested by Cora.

13.2 Any personal information which it receives is covered by Cora's Privacy Policy which is available on request.

13.3 By ordering Goods and Services from Cora, the Customer and Guarantors:

(a) acknowledge the information provided by sub-paragraph 8.2(b)(i) of the Privacy Policy; and

(b) consent to the disclosure pursuant to sub-paragraph 8.2(b)(ii) of the Privacy Policy.

14. Miscellaneous Provisions

14.1 Any notice required to be served on either of the parties may be served personally or be left at or emailed to the other party at the party's address specified in this Agreement. Notices sent by email shall be deemed to be duly given on the next business day after it is sent.

14.2 All prices are quoted in Australian Dollars and are exclusive of GST.

14.3 If any part of this Agreement is or becomes void and unenforceable then that part is or will be severed from this Agreement and the remainder shall not be affected.

14.4 This Agreement shall be governed by the laws of Western Australia and the parties submit to the exclusive jurisdiction of the Courts of Western Australia.

14.5 If the Customer comprises of more than one person, each person shall be jointly and severally liable to perform the Customer's obligations under this Agreement.

14.6 Words and phrases that have defined meanings in the PPSA have the same meaning as in the PPSA unless the context indicates otherwise.

15. Definitions

15.1 **ACL** means the Australian Consumer Law (*Schedules 1 and 2 of the Competition and Consumer Act 2010 (Cth)* and any other relevant provisions.

15.2 **Agreement** means the agreement entered into between the Parties, consisting of the Quote, any annexure thereto, the General Conditions, the Warranty Terms, and the Privacy Policy.

15.3 **Carrier** means the carrier contracted by Cora from time to time to deliver the Goods.

15.4 **Cora** means Cora Bike Rack Pty Ltd (ABN 45 079 353 254).

15.5 **Customer** means the customer specified in this Agreement.

15.6 **Delivery Date** means the proposed date for delivery of the Supply specified in the Agreement.

15.7 **Delivery Site** means the site for delivery of the Goods.

15.8 **General Conditions** means these general terms and conditions of the Agreement.

15.9 **Goods** means goods and parts supplied by Cora pursuant to this Agreement.

15.10 **Guarantors** means the directors, partners, proprietors, or trustees of the Customer, as the case may be, who provide personal guarantees pursuant to, and who are specified in, this Agreement.

15.11 **Interest** means interest at the rate specified pursuant to the *Penalty Interest Rates Act 1983* (Vic) plus 2% as at the date of the Invoice.

15.12 **Invoice** means a valid tax Invoice.

15.13 **Party** means a party to the Agreement, and **Parties** has a corresponding meaning.

15.14 **PMSI** means a purchase moneys security interest for the purpose of the PPSA.

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15.15 PPSA means the *Personal Property Securities Act 2009* (Cth).

15.16 PPSR means the Personal Property Securities Register.

15.17 Privacy Policy means Cora's privacy policy.

15.18 Quote means the quote for a Supply to which these General Conditions are attached.

15.19 Services means the services supplied by Cora pursuant to this Agreement.

15.20 Supply means the supply of Goods and/or Services by Cora, pursuant to this Agreement.

15.21 Warehouse means the warehouse where Cora and/or a Carrier stores the Goods and from which delivery is made.

15.22 Warranty Terms means the specific warranty terms specified in clause 11.2, subject to clause 11.3.

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