

# Weta Legs Terms and Conditions

Performing Legs Limited is in the business of manufacturing equipment designed specifically for use by production companies, costumers and performers in film, television and dramatic works.

These terms and conditions (“Terms”) govern the use and purchase of Products by the Purchaser from Performing Legs Limited. Accordingly, in purchasing Products, the Purchaser acknowledges that they have read and accepted these Terms and agree to be legally bound by them. Please direct any queries regarding these Terms to Performing Legs Limited before purchasing Products.

## 1. Definitions

1.1 In these Terms, the words and expressions set out below shall, unless the context otherwise requires, have the following meanings:

“**PL**” means Performing Legs Limited, a company incorporated in New Zealand under number [ Company Registration Pending ];

“**Force Majeure Event**” means any event or circumstances beyond the reasonable control of a party (including, without limitation, industrial or civil disputes war, governmental action, riot, fire, flood, drought or act of God, terrorism (including the threat of terrorism) and epidemics);

“**GST**” means goods and services tax, as that term is defined in the Goods and Services Tax Act 1985 (NZ);

“**Invoice**” means any invoice rendered to the Purchaser in respect of Products;

“**Intellectual Property Rights**” means, without limitation, all rights with respect to copyright including future copyright, registered and unregistered trademarks, designs (whether or not registrable), patents registered and unregistered, trade secrets and know-how, and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967 and the right to apply for the grant of any such right;

“**Order**” means any request for the purchase of Products manufactured by PL in accordance with these Terms;

“**Purchaser**” means the person or entity that Orders, purchases or otherwise obtains Products manufactured by PL;

“**Products**” means the products as manufactured by PL from time to time and being subject of an Order;

“**Users**” means any person using the Products for any reason whatsoever.

## 2. Product Use and Safety

2.1 The Products are intended for use by costumers and performers for slow, steady walking on flat, non-slippery surfaces. PL advises not to attempt to use the Products for any other uses, especially no running, jumping, climbing, stunts, etc.

- 2.2 Any videos displayed on [www.wetanz.com](http://www.wetanz.com) are for entertainment and promotional purposes only and were conducted by professionals or under the supervision of professionals. Accordingly, PL must insist that no one attempt to reproduce or re-enact any activity or stunt displayed in these videos.
- 2.3 PL has supplied or made available to the Purchaser certain information relating to safety conditions and procedures concerning the Products ("[User Manual](http://www.wetanz.com/assets/pdf/User-manual.pdf)" <http://www.wetanz.com/assets/pdf/User-manual.pdf>) and the Purchaser acknowledges receipt thereof and further acknowledges that it has reviewed and understood the same. Accordingly, the Purchaser warrants that:
- (a) It has read and understood these Terms;
  - (b) It has read and understood the User Manual and that it will, and procure that its Users will, observe all warnings and notices contained therein and exercise good judgement as to the use of the Products;
  - (c) It will, and procure that its Users will, at all times while using the Products, wear protective gear such as wrist guards, elbow pads and helmets together with long sleeves and trousers;
  - (d) It will not modify, repair or disassembly of the Product in any way; and
  - (e) It will procure that all Users are older than 18 years of age.
- 2.4 The Products have the effect of enabling Users to obtain supernatural abilities or characteristics, for example, without limitation, an increase in a User's height. Accordingly, any activity performed using the Products is dangerous and can lead to serious or even fatal injuries. It is essential, therefore, that suitable training with respect to the Products is undertaken by Users and that Users, prior to their first use of the Products, read and understand the User Manual illustrating and advising the ways in which the Products must be fitted and used.
- 2.5 The Purchaser acknowledges that it is its sole responsibility to ensure the safe and ordinary use of the Products. In this regard, and for the avoidance of doubt, the Purchaser shall procure that;
- (a) All Users, when learning or using the Products for the first time, will not attempt to walk unsupported until such time as they are fully proficient with the Products;
  - (b) The Products are not used on slippery, wet, uneven or rough floors, stairs, soft and sloping places, or carpeted areas;
  - (c) The Products are not used in public or crowded places (for example, without limitation, main roads, pavements, near motor vehicles or pedestrians) where damage to property or injury to the User or others may occur; and
  - (d) Users use the model of the Product that suits their age and weight.

### **3. Distributorship**

- 3.1 PL has granted Weta Limited the right to facilitate orders for the purchase of the Products. Accordingly, the Purchaser acknowledges that any Order facilitated through Weta Limited and the subsequent purchase a Products constitutes a direct contractual relationship between PL and the Purchaser, as opposed to Weta Limited and the

Purchaser. Any responsibility or liability of Weta Limited to the Purchaser in connection with the Products and its website ([www.wetanz.com](http://www.wetanz.com)) is hereby expressly disclaimed. For the sake of clarity, matters relating to Orders, Prices and Payment, Delivery and Shipping, Returns Policy and Privacy shall be governed in accordance with the terms and conditions of Weta Limited's website ([www.wetanz.com/customer-support](http://www.wetanz.com/customer-support)).

#### **4. Intellectual Property**

4.1 The Purchaser acknowledges that the Products and any and all Intellectual Property Rights in and to the Products, are and will remain the sole property of PL and/or its licensors, and the Purchaser will not at any time, in any way, question or dispute the ownership by PL and/or its licensors of the Products or any Intellectual Property Rights in the Products.

#### **5. Warranties**

5.1 The Purchaser acknowledges that PL is the manufacturer of the Products and the only warranty offered is workmanship in the Products being to agreed specifications. The Products are therefore warranted only to conform to the quantity and contents stated on the Invoice. Except as set forth in this clause 5.1, PL gives no warranty, express or implied in connection with the Products. Without limiting the foregoing, PL specifically disclaims any implied warranties of merchantability, fitness for particular purpose, title and non-infringement of intellectual property.

5.2 If the Purchaser is located outside New Zealand, the Purchaser warrants and represents to PL that they have obtained all necessary approvals, licences, permits and other authorisations required by law (if any) in relation to the importing of the Products.

5.3 For the avoidance of doubt, Weta Limited does not provide any warranty for the components and materials used in the manufacture of the Products.

#### **6. Liability**

6.1 The Purchaser accepts all risks of personal injury and property damage arising from use of the Products.

6.2 The Purchaser agrees to, together with their dependents, heirs, executors, assigns, guests and invitees, defend, indemnify, release and hold harmless PL and its affiliates, representatives, officers, directors, employees or agents from any and all liabilities, claims and expenses, including legal costs, that arise from:

- (a) Any breach of these Terms by the Purchaser or any User; and
- (b) Any illness, bodily injury, disability, death or property damage or loss, however caused, arising from or related to the use of the Products.

6.3 PL's liability is limited to repair, replacement of the Products or refund of the purchase price. Additional disclaimers may apply to custom Products and such disclaimers will appear in the Invoice or other documentation provided with an Order. No warranties apply to products that have been misused, modified or improperly maintained.

6.4 For the sake of clarity, in no event will PL or its affiliates, representatives, officers, directors, employees or agents be liable (whether in contract, tort including negligence, strict liability or otherwise) to the Purchaser or any User for:

- (a) Loss of revenue or profit, loss of anticipated savings, loss of goodwill or opportunity, loss of production, loss or corruption of data or wasted management or staff time; or
- (b) Loss, damage, cost or expense of any kind whatsoever that is indirect, consequential, punitive incidental or of a special nature,

arising directly or indirectly out of the use of the Products, even if PL had been advised of the possibility of such damages, and even if such loss, damage, cost or expense was reasonably foreseeable by PL.

- 6.5 Any claim made by a Purchaser against PL must be made by notice in writing to PL within 6 months of the claim or cause of action arising. PL will not be liable for any claim that is not made within such time.
- 6.6 Nothing in this clause 6 or elsewhere in these Terms is intended to limit or exclude any liability on the part of PL where and to the extent that any applicable law prohibits such exclusion or limitation.

## **7. Entire Agreement, No Waiver, and Amendments**

- 7.1 These Terms constitute the whole agreement and understanding between PL and the Purchaser with respect to the subject matter of these Terms and supersedes all prior agreements, negotiations and discussions between them relating to the subject matter of these Terms.
- 7.2 The Purchaser acknowledges that it has not entered into these Terms in reliance on any statement or representation, whether or not made by PL, except in so far as the representation has been incorporated into the Terms.
- 7.3 The Purchaser irrevocably and unconditionally waives any right it may have to claim damages and/or to rescind these Terms by reason of any misrepresentation (other than a fraudulent misrepresentation) not expressly contained in these Terms.
- 7.4 Subject to clause 6.5, any failure or delay in enforcing an obligation or exercising a right, under the Terms, does not amount to a waiver of that obligation or right. The waiver of a breach of a term of these Terms does not amount to a waiver of any other term. A waiver of a breach of any of the terms of these Terms shall not prevent a party from subsequently requiring compliance with the waived obligation.
- 7.5 No amendment to these Terms shall be effective unless made in writing and signed by each of PL and the Purchaser or their duly authorised representatives.

## **8. Severance**

- 8.1 If any provision of these Terms is declared invalid or unenforceable by any court or authority of competent jurisdiction:
  - (a) All other provisions of these Terms shall remain in full force and effect and shall not in any way be impaired; and
  - (b) PL shall determine a replacement provision which is as close as is legally permissible to the provision found invalid, or unenforceable.

## **9. Force Majeure**

- 9.1 PL shall not be liable to the Purchaser for its inability to perform any obligations under these Terms caused by a Force Majeure Event.
- 9.2 If a Force Majeure Event occurs, then PL shall immediately notify the Purchaser of the nature and likely duration of the Force Majeure Event and take all reasonable steps to reduce its effect.
- 9.3 If the Force Majeure Event continues for a period of thirty (30) days or more either PL or the Purchaser may terminate the Order provided such Force Majeure Event is continuing at the date of termination.
- 9.4 Unless the Order is terminated under clause 9.3, PL shall notify the Purchaser as soon as its performance of its obligations under these Terms is no longer prevented.

## **10. Consumer Guarantees Act 1993 (NZ)**

- 10.1 These Terms are subject to the provisions of the Consumer Guarantees Act 1993 ("CGA") in all cases where the Purchaser is a consumer and does not acquire the Products for the purposes of business. In this clause 10 the terms "consumer" and "business" have the meanings given to them in the CGA.
- 10.2 In any event, PL's liability under any claim shall not exceed the cost of the Products.
- 10.3 PL does not make or give any express guarantees (as defined in the CGA).
- 10.4 Nothing in these terms is intended to have the effect of contracting out of the provisions of the CGA except to the extent permitted by that Act, and these terms are to be modified to the extent necessary to give effect to that intention.

## **11. Governing law and Jurisdiction**

- 11.1 These Terms shall be governed by and interpreted in accordance with the laws of New Zealand. The parties hereby submit to the exclusive jurisdiction of the Courts of New Zealand.