

1. Definitions

- 1.1 "Agreement" shall mean these terms and conditions of trade and all other schedules, purchase orders and instructions between the parties.
- 1.2 "Seller" shall mean Ausworld Procurement & Warehousing Pty Ltd its successors, agents, subsidiaries and assigns or any person acting on behalf of and with the authority of Ausworld Procurement & Warehousing Pty Ltd.
- 1.3 "Client" shall mean the Client its successors and assigns or any person acting on behalf of and with the authority of the Client as described on any quotation, work authorisation or other form as provided by the Seller to the Client.
- 1.4 "Intellectual Property" means
- copyright;
 - all rights conferred under statute, common law or equity in relation to inventions (including patents);
 - registered and unregistered trademarks;
 - registered and unregistered designs;
 - circuit layouts;
 - confidential information; and
 - all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields
- 1.5 "Guarantor" means that person (or persons), or entity, who agrees to be jointly and severally liable for the debts of the Client on a principal debtor basis.
- 1.6 "Goods" shall mean all Goods supplied by the Seller to the Client (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation, or any other forms as provided by the Seller to the Client.
- 1.7 "Services" shall mean all Services supplied by the Seller to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 1.8 "Purchase Order" the document containing specific order details and instructions from the Client to the Seller
- 1.9 "Price" shall mean the price payable for the Services and/or as agreed between the Seller and the Client in accordance with clause 3.2 of this contract.

2 Acceptance

- 2.1 The Client is taken to have accepted and is immediately bound by these terms and conditions if the Client executes the Credit Account Application and/or provides the Seller with any instructions for the supply of Goods and/or Services and/or the Client's acceptance of Goods and/or Services supplied by the Seller shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Client has entered into this Agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of the Seller.
- 2.4 The Client shall give the Seller not less than fourteen (14) calendar days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by the Seller as a result of the Client's failure to comply with this clause.
- 2.5 Goods and/or Services are supplied by the Seller only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.

3 Price And Payment

- 3.1 At the Seller's sole discretion the Price shall be either:
- as indicated on invoices provided by the Seller to the Client in respect of Goods and/or Services supplied; or
 - the Seller's quoted Price (subject to clause 3.2) which shall be binding upon the Seller provided that the Client shall accept the Seller's quotation in writing within thirty (30) calendar days.
- 3.2 The Seller reserves the right to change the Price in the event of a variation to the Seller's quotation.
- 3.3 If the Client requires work to be performed outside of the Seller's normal trading hours then the Price shall be increased to include the Seller's usual overtime rate.
- 3.4 At the Seller's sole discretion a deposit may be required.
- 3.5 The Seller may submit a detailed payment claim at intervals not less than one month for work performed up to the end of each month. The value of work so performed shall include the reasonable value of authorised variations, whether or not the value of such variations has been finally agreed between the parties, and the value of materials delivered to the site but not installed.
- 3.6 At the Seller's sole discretion:
- payment shall be due on delivery of the Goods and/or Services; or
 - payment for approved Clients shall be made by instalments in accordance with the Seller's payment schedule.
- 3.7 Time for payment for the Goods and/or Services shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) calendar days following the date of the invoice.
- 3.8 Payment will be made by cash, EFT payment, Credit card, direct credit, or by any other method as agreed to between the Client and the Seller.
- 3.9 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

4 Delivery Of Goods and/or Services

- 4.1 At the Seller's sole discretion delivery of the Goods and/or Services shall take place when the Client takes possession of the Goods and/or Services at the Client's nominated address (in the event that the Goods and/or Services are delivered by the Seller or the Seller's nominated carrier).
- 4.2 At the Seller's sole discretion the costs of delivery are included in the Price.
- 4.3 The Client shall make all arrangements necessary to take delivery of the Goods and/or Services whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods and/or Services as arranged then the Seller shall be entitled to charge a reasonable fee for redelivery.
- 4.4 Delivery of the Goods and/or Services to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 4.5 The Seller may deliver the Goods and/or Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 4.6 The failure of the Seller to deliver shall not entitle either party to treat this contract as repudiated.
- 4.7 The Seller shall not be liable for any loss or damage whatever due to failure by the Seller to deliver the Services (or any of them) promptly or at all where due to circumstances beyond the control of the Seller.

5 Risk

- 5.1 If the Seller retains ownership of the Goods and/or Services nonetheless, all risk for the Goods and/or Services passes to the Client on delivery per the INCOTERMS on the Purchase Order.
- 5.2 Where a third party has supplied materials for the Seller to complete the Goods and/or Services, the Client acknowledges that the Seller accepts no liability for the suitability of purpose, quality and any faults inherent in the materials. The Seller shall not be responsible for any defects in the works, any loss or damage to the materials (or any part thereof), however arising from the use of the materials supplied.
- 5.3 If any of the Goods and/or Services are damaged or destroyed following delivery but prior to ownership passing to the Client, the Seller is entitled to receive all insurance proceeds payable for the Goods and/or Services. The production of these terms and conditions by the Seller is sufficient evidence of the Seller's rights to receive the insurance proceeds without the need for any person dealing with the Seller to make further enquiries.
- 5.4 Where the Client expressly requests the Seller to leave Goods and/or Services outside the Seller's premises for collection or to deliver the Goods and/or Services to an unattended location then such Goods and/or Services shall be left at the Client's sole risk and it shall be the Client's responsibility to ensure the Goods and/or Services are insured adequately or at all.
- 5.5 The Client shall indemnify the Seller from and against all costs incurred and damages caused as a result of the Seller following the Client's instructions.

6 Client's Responsibilities

- 6.1 It is the intention of the Seller and agreed by the Client that:
- the Client shall obtain and pay for all approvals, consents or permits required for the Goods and/or Services prior to commencement of the Goods and/or Services by the Seller; and
 - the Client shall maintain adequate insurances; and
 - the Client shall provide the Seller with clear and free access to the worksite, including electricity and water services, to enable the Seller to complete the Goods and/or Services. The Seller shall not be liable for any loss or damage to the worksite whatsoever unless due to the negligence of the Seller; and

(d) Instructions on the placement, installation and /or supervision for the Goods and/or Services shall be the sole responsibility of the Client, the Seller shall not be liable for errors or omissions arising from the Client failing to comply with this clause.

7 Title

- 7.1 The Seller and the Client agree that ownership of the Goods and/or Services and or goods shall not pass until:
- the Client has paid the Seller all amounts owing for the particular Goods and/or Services; and
 - the Client has met all other obligations due by the Client to the Seller in respect of all contracts between the Seller and the Client.
- 7.2 Receipt by the Seller of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Seller's ownership or rights in respect of the Goods and/or Services shall continue.
- 7.3 It is further agreed that:
- until ownership of the Goods and/or Services passes to the Client in accordance with clause 7.1 then the Client is only a bailee of the Goods and/or Services and must return the Goods and/or Services to the Seller on request;
 - the Client holds the benefit of the Client's insurance of the Goods and/or Services on trust for the Seller and must pay to the Seller the proceeds of any insurance in the event of the Goods and/or Services being lost, damaged or destroyed;
 - the Client must not sell, dispose, or otherwise part with possession of the Goods and/or Services other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods and/or Services then the Client must hold the proceeds of any such act on trust for the Seller and must pay or deliver the proceeds to the Seller on demand;
 - the Client should not convert or process the Goods and/or Services or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of the Seller and must sell, dispose of or return the resulting product to the Seller as it so directs;
 - the Client shall not charge or grant an encumbrance over the Goods and/or Services nor grant nor otherwise give away any interest in the Goods and/or Services while they remain the property of the Seller;
 - the Seller may recover possession of any Goods and/or Services in transit whether or not delivery has occurred;
 - until such time as ownership of the Goods and/or Services shall pass from the Seller to the Client the Seller may give notice in writing to the Client to return the Goods and/or Services or any of them to the Seller. Upon such notice the rights of the Client to obtain ownership or any other interest in the Goods and/or Services shall cease;
 - if the Client fails to return the Goods and/or Services to the Seller then the Client irrevocably authorises the Seller or the Seller's agent to enter upon and into land and premises owned, occupied and/or used by the Client, or any premises as the invitee of the Client, where the Goods and/or Services are situated and take possession of the Goods and/or Services; and
 - the Seller may commence proceedings to recover the Price of the Goods and/or Services sold notwithstanding that ownership of the Goods and/or Services has not passed to the Client.

8 Defects, Warranties and Returns, Competition and Consumer Act 2010 ("CCA")

- 8.1 The Client shall inspect the Goods and/or Services on delivery and shall within seven (7) calendar days of delivery (time being of the essence) notify the Seller of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford the Seller an opportunity to inspect the Goods and/or Services within a reasonable time following delivery if the Client believes the Goods and/or Services are defective in any way. If the Client shall fail to comply with these provisions the Goods and/or Services shall be presumed to be free from any defect or damage. For defective Goods and/or Services, which the Seller has agreed in writing that the Client is entitled to reject, the Seller's liability is limited to either (at the Seller's discretion) replacing the Goods and/or Services or repairing the Goods and/or Services except where the Client has acquired Goods and/or Services as a consumer within the meaning of the CCA or the FTA of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the purchase price of the Goods and/or Services, or repair of the Goods and/or Services, or replacement of the Goods and/or Services.
- 8.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 8.3 The Seller acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 8.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, the Seller makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods and/or Services. The Seller's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 8.5 If the Client is a consumer within the meaning of the CCA, the Seller's liability is limited to the extent permitted by section 64A.
- 8.6 If the Seller is required to replace the Goods and/or Services under this clause or the CCA, but is unable to do so, the Seller may refund any money the Client has paid for the Goods and/or Services.
- 8.7 If the Client is not a consumer within the meaning of the CCA, subject to the conditions of warranty set out in clause 8.8, the Seller warrants that if any defect in any Goods and/or Services supplied by the Seller become apparent and are reported to the Seller within twelve (12) months of the date of delivery (time being of the essence) then the Seller will either (at the Seller's sole discretion) replace or remedy the Goods and/or Services.
- 8.8 The conditions applicable to the warranty given by clause 8.7 are:
- limited to the value of any express warranty or warranty card provided to the Client by the Seller at the Seller's sole discretion;
 - the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
 - failure on the part of the Client to properly maintain any Goods and/or Services; or
 - failure on the part of the Client to follow any instructions or guidelines provided by the Seller; or
 - any use of any Goods and/or Services otherwise than for any application specified on a quote or order form; or
 - the continued use of any Goods and/or Services after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
 - fair wear and tear, any accident or act of God.
 - the warranty shall cease and the Seller shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without the Seller's consent.
 - limited to any warranty to which the Seller is entitled, if the Seller did not manufacture the Goods and/or Services. The Seller shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods and/or Services;
 - in respect of all claims the Seller shall not be liable to compensate the Client for any delay in either replacing or remedying the workmanship or in properly assessing the Client's claim.
 - otherwise negated absolutely.
- 8.9 Subject to clause 8.1, returns will only be accepted provided that:
- the Client has complied with the provisions of clause 8.1; and
 - the Seller has agreed that the Goods and/or Services are defective; and
 - the Goods and/or Services are returned within a reasonable time at the Client's cost (if that cost is not significant); and
 - the Goods and/or Services are returned in as close a condition to that in which they were delivered as is possible.
- 8.10 Notwithstanding clauses 8.1 to 8.7 but subject to the CCA, the Seller shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- the Client failing to properly maintain or store any Goods and/or Services;
 - the Client using the Goods and/or Services for any purpose other than that for which they were designed;
 - the Client continuing the use of any Goods and/or Services after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - the Client failing to follow any instructions or guidelines provided by the Seller;
 - fair wear and tear, any accident, or act of God.
- 8.11 In the case of second hand Goods and/or Services, unless the Client is a consumer under the CCA, the Client acknowledges that it has had full opportunity to inspect the second hand Goods and/or Services prior to delivery and accepts them with all faults and that to the extent permitted by law no warranty is given by the Seller as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Client acknowledges and agrees that the Seller has agreed to provide the Client with the second hand Goods and/or Services and calculated the Price of the second hand Goods and/or Services in reliance of this clause 8.11.
- 8.12 The Seller may in its absolute discretion accept non-defective Goods and/or Services for return in which case the Seller may require the Client to pay handling fees of up to ten percent (10%) of the value of the returned Goods and/or Services plus any freight costs.
- 8.13 Notwithstanding anything contained in this clause if the Seller is required by a law to accept a return then the Seller will only accept a return on the conditions imposed by that law.

- 9 The Competition and Consumer Act 2010 ("CCA") and Fair Trading Acts ("FTA")**
- 9.1 Nothing in this Agreement is intended to have the effect of contracting out of any applicable provisions of the CCA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.
- 10 Default & Consequences of Default**
- 10.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and one half percent (2.5%) per calendar month and such interest shall compound monthly at such a rate after as well as before any judgment.
- 10.2 If the Client defaults in payment of any invoice when due, the Client shall indemnify the Seller from and against all costs and disbursements incurred by the Seller in pursuing the debt including legal costs on a solicitor and own client basis and the Seller's collection agency costs.
- 10.3 Without prejudice to any other remedies the Seller may have, if at any time the Client is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Goods and/or Services to the Client and any of its other obligations under the terms and conditions. The Seller will not be liable to the Client for any loss or damage the Client suffers because the Seller has exercised its rights under this clause.
- 10.4 If any account remains overdue after thirty (30) calendar days then an amount of the greater of twenty dollars (\$20.00) or ten percent (10.00%) of the amount overdue (up to a maximum of two hundred dollars (\$200.00)) shall be levied for administration fees which sum shall become immediately due and payable.
- 10.5 Without prejudice to the Seller's other remedies at law the Seller shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Seller shall, whether or not due for payment, become immediately payable in the event that:
- (a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Client will be unable to meet its payments as they fall due; or
- (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- 10.6 Without prejudice to any other remedies the Seller may exercise its discretionary right to list the defaulting client with credit rating agency of its choice.
- 11 Security And Charge**
- 11.1 Despite anything to the contrary contained herein or any other rights which the Seller may have howsoever:
- (a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Seller or the Seller's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Client and/or the Guarantor acknowledge and agree that the Seller (or the Seller's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.
- (b) should the Seller elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own client basis.
- (c) the Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Seller or the Seller's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 11.1.
- 12 Personal Property Securities Act 2009 ("PPSA")**
- 12.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 12.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and/or Services that have previously been supplied and that will be supplied in the future by the Seller to the Client.
- 12.3 The Client undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Seller may reasonably require to;
- (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
- (ii) register any other document required to be registered by the PPSA; or
- (iii) correct a defect in a statement referred to in clause 12.3(a)(i) or 12.3(a)(ii);
- (b) indemnify, and upon demand reimburse, the Seller for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods and/or Services charged thereby;
- (c) not register a financing change statement in respect of a security interest without the prior written consent of the Seller;
- (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or Services in favour of a third party without the prior written consent of the Seller;
- (e) immediately advise the Seller of any material change in its business practices of selling the Goods and/or Services which would result in a change in the nature of proceeds derived from such sales.
- 12.4 The Seller and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 12.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 12.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 12.7 Unless otherwise agreed to in writing by the Seller, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 12.8 The Client must unconditionally ratify any actions taken by the Seller pursuant to this clause. Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions the PPSA.
- 13 Bank Guarantee**
- 13.1 At the Seller's sole discretion:
- (a) The Client shall deliver to the Seller a bank guarantee upon the execution of this Agreement.
- (b) If at any time the Client fails to observe or perform any of the Client's obligations under this Agreement, the Seller may at its sole discretion at any time after such failure call up and appropriate to itself absolutely all or such part of the amount of the bank guarantee necessary in the reasonable opinion of the Seller to compensate the Seller for any loss or damage suffered by the Seller by reason of such failure.
- (c) Any such appropriation by the Seller will not:
- (i) constitute a waiver by the Seller of such failure or its right to damages for such failure;
- (ii) prejudice any other remedy or right of the Seller in respect of such failure; nor
- (iii) without further action by the Seller be deemed to terminate this agreement.
- (d) If the amount of the bank guarantee or any part of it is appropriated by the Seller and the Agreement remains on foot the Client shall, within seven (7) calendar days of demand by the Seller provide to the Seller an additional or a substituted bank guarantee for such amount as ensures that the amount secured is not reduced below the amount specified by the Seller.
- (e) The Client shall, if so requested by the Seller, increase the amount secured by the bank guarantee to such amount as the Seller reasonably requires having regard to the value of the Goods and/or Services supplied, by providing such additional or substituted bank guarantee or bank guarantees as may be required by the Seller to cover the total value of the Goods and/or Services supplied.
- (f) Upon finalisation of this Agreement and/or any amounts owing on any accounts held by the Client, the Seller shall return to the Client any bank guarantee provided by the Client.
- 14 Cancellation**
- 14.1 The Seller may cancel any contract to which these terms and conditions apply or cancel delivery of Goods and/or Services at any time before the Goods and/or Services are delivered by giving written notice to the Client. On giving such notice the Seller shall repay to the Client any sums paid in respect of the Price. The Seller shall not be liable for any loss or damage whatever arising from such cancellation.
- 14.2 In the event that the Client cancels delivery of the Goods and/or Services the Client shall be liable for any loss incurred by the Seller (including, but not limited to, any loss of profits) up to the time of cancellation. The Client may only cancel delivery of Goods and/or Services by providing the Seller with written notice of cancellation.
- 14.3 The Seller reserves its right to refuse the cancellation of Goods and/or Services manufactured to the Client's specifications or non-stock list items after the Seller has commenced production of the Goods and/or Services.
- 14.4 In the event of cancellation by the Client, the Seller reserves its right to charge a restocking fee at the Seller's sole discretion.
- 15 Privacy Act 1988**
- 15.1 The Client agrees for the Seller to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by the Seller.
- 15.2 The Client agrees that the Seller may exchange information about the Client with those credit providers and with related body corporate for the following purposes:
- (a) to assess an application by the Client; and/or
- (b) to notify other credit providers of a default by the Client; and/or
- (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
- (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two years.
- 15.3 The Client consents to the Seller being given a consumer credit report to collect overdue payment on commercial credit.
- 15.4 The Client agrees that personal credit information provided may be used and retained by the Seller for the following purposes (and for other agreed purposes or required by):
- a) the provision of the Goods and/or Services; and/or
- b) the marketing of the Goods and/or Services by the Seller, its agents or distributors; and/or
- c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of the Goods and/or Services; and/or
- d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
- e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Goods and/or Services.
- 15.5 The Seller may give information about the Client to a CRB for the following purposes:
- a) to obtain a consumer credit report;
- b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 15.6 The information given to the CRB may include:
- a) personal information as outlined in 14.1 above;
- b) name of the credit provider and that the Seller is a current credit provider to the Client;
- c) whether the credit provider is a licensee;
- d) type of consumer credit;
- e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
- f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) calendar days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and the Seller has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
- g) information that, in the opinion of the Seller, the Client has committed a serious credit infringement;
- h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 15.7 The Client shall have the right to request (by e-mail) from the Seller:
- a) a copy of the information about the Client retained by the Seller and the right to request that the Seller correct any incorrect information; and
- b) that the Seller does not disclose any personal information about the Client for the purpose of direct marketing.
- 15.8 The Seller will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Agreement or is required to be maintained and/or stored in accordance with the law.
- 15.9 The Client can make a privacy complaint by contacting the Seller via e-mail. The Seller will respond to that complaint within seven (7) calendar days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) calendar days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.
- 16 General**
- 16.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 16.2 Any reference in these terms and conditions to any Statute or Statutory Provision includes a reference to that Statute or Statutory Provision as from time to time amended, extended or re-enacted.
- 16.3 These terms and conditions and any contract to which they apply shall be governed by the laws of the State of Queensland and each party submits to the non-exclusive jurisdiction of the courts of the State of Queensland.
- 16.4 Any complaints or disputed regarding the provision of the Goods and/or Services are to be reported to the Seller as a dispute notice. The first step of dispute resolution is to resolve any complaints by senior management meetings without needing to involve third parties. The escalation is to seek arbitration in the state of Queensland. The Seller reserves the right to enforce these terms and conditions equitably including but not limited to arbitration in the State of Queensland. This clause shall survive termination of this Agreement.
- 16.5 The Seller shall be under no liability whatever to the Client for any indirect loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Seller of these terms and conditions.
- 16.6 In the event of any breach of this contract by the Seller the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Goods and/or Services.
- 16.7 The Client shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Client by the Seller nor withhold payment of any invoice because part of that invoice is in dispute.
- 16.8 The Seller may license, sub-contract or assign all or any part of its rights and obligations without the Client's consent and in so doing the Seller is fully discharged from its obligations to the Client.
- 16.9 The Client agrees that the Seller may review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Seller notifies the Client of such change in writing.
- 16.10 This Agreement is personal to the Client and the Client may not assign the Agreement without the Seller's written consent.
- 16.11 Neither party shall be liable for any breach of contract or liable for any defaults, delays, or failures to perform any of the party's obligations under the contract due to but not limited to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 16.12 The Client warrants that it has the power to enter into this Agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this Agreement creates binding and valid legal obligations on it.
- 16.13 These terms and conditions shall prevail to the extent of any inconsistency with any other document or Agreement between the Client and the Seller.
- 16.14 The Seller reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Seller notifies the Client of such change.
- 16.15 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.
- 16.16 The failure by the Seller to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Seller's right to subsequently enforce that provision.
- 17 Engineering Data**
- 17.1 The Supplier shall furnish any applicable engineering data listed on the Purchase Order specific to the Client order. This may include but not limited to data sheets, engineering data, installation instructions, user, maintenance or operating manuals, spare parts lists and all other documentation deemed necessary to install, operate and maintain the Goods and/or Services. Said engineering data is to be delivered at such a time to not delay or hinder installation, operation and maintenance of the Goods and/or Services.
- 17.2 Intellectual Property**
- Supplier retains the ownership of all Intellectual Property rights in and to the Goods and/or Services. Client retains the ownership of all Intellectual Property rights of any content or information Client submits to the Agreement. Nothing in these terms and conditions transfer the Intellectual Property Rights to the Goods and/or Services. Supplier grants you a limited, revocable, personal, non-transferable, non-exclusive license to use the Goods and/or Services for purposes in line with the Copyright Act 1968 (Cth). Client grants us a royalty-free, sub-licensable, transferable, irrevocable and perpetual licence to use, any contributions you make to the Goods and/or Services in connection with our operation of the Agreement