

Terms and Conditions

1 Interpretation

- 1.1 In these terms and conditions.
- 1.1.1 “The Company” means the entity appointed by the Client to provide goods or services and any related body corporate as defined in the Corporations Act 2001 (Cth) and its successors and assigns.
- 1.1.2 “Client” means the entity appointing the Company to provide goods or services, it’s successors and assigns and any other person offering to contract with the Company on these terms and conditions or where such person is acting in the course of employment, such persons as employers.

2 Agents

- 2.1 The Company shall be at liberty to retain any of its authorised agents or any other entity it sees fit and at the sole discretion of the Company and the Client consents to disclose any information about the Client or its contacts to these agents.

3 Risk

- 3.1 Should the Company elect to post any goods or organise delivery of goods the Client’s risk of loss or damage to such goods pass to the Client on the date and at the time that these goods were sent, and it is the Clients responsibility to ensure these goods are insured and covered for their time in transit.
- 3.2 The Company will not be held responsible for non-delivery or delay in delivery of any goods where such delivery or delay occurs.

4 Title of Property

- 4.1 In relation to goods supplied to the Client, ownership, and property in the goods vests absolutely with the Company and does not pass to the Client UNTIL the Client.
- 4.1.1 Pays for the goods in full.
- 4.1.2 Pays in full all other monies owing or unpaid by the Client to the Company including monies in respect of goods previously or subsequently supplied to the Client by the Company.
- 4.2 In relation to goods supplied to the Client for which payment in full has not been received.
- 4.2.1 The relationship between the Client and the Company shall in fiduciary.
- 4.2.2 The Client will hold those goods as Bailee for the Company.

4.2.3 Where the Client sells those goods, the Client does so as fiduciary agent of the Company.

4.2.4 When new goods or objects are formed with the Company’s goods into other projects or the goods are affixed to other objects, the Company will be given full ownership of such new goods or objects.

4.2.5 When the goods are disposed of, the monies resulting from the disposal and all other proceeds received in respect of the goods, including insurance proceeds will be kept separately in trust for the Company.

4.2.6 Where the goods are disposed of, the Client may only dispose of the goods in the ordinary course of its business on commercially reasonable terms.

4.2.7 The Client undertakes that until it delivers the goods to a third party, it will store the goods on its premises separately from its own goods or those of any other person, and in a manner which makes the goods readily identifiable as the Company’s goods.

5 Access

- 5.1 The Client irrevocable permits the Company or any person authorised by the Company in writing, upon giving reasonable notice to enter the Client’s premises or at premises where the works are reasonably believed by the Company to be held on the Clients behalf for the purpose of examining or recovering the goods. The Client also agrees to indemnify and holds the Company harmless for reasonable costs of removal, enforcement, and legal action in respect of the removal of any goods, the subject of the Agreement.

6 Transactions contemplated by this Agreement

- 6.1 The Company’s tender of delivery of goods and services under this Agreement is a condition of the Clients duty to accept the goods or services provided and, unless otherwise agreed, the Clients duty to pay for them.

7 Disputes

- 7.1 If the Client disputes any services supplied by the Company and declares it faulty or disputes the invoices the Company has issued, the Client must notify their reasons in writing to the Company within 7 days of the invoice date, failing which the Client loses any right to dispute the quality of the good, services or quantum of.

8 Whole Agreement

- 8.1 These terms and conditions together with the Application for credit agreement embody the whole

agreement between parties and subject to the express terms contained in any written acceptance thereof, all previous dealings, representations and arrangements are hereby excluded and cancelled.

9 Payment

- 9.1 The Client agrees to pay all amounts due in clear funds within the Company's agreed timeframe but no later than 14 days from the invoice. The Client agrees that if it fails to pay in accordance with this clause, the Company may.
- 9.1.1 Charge an overdue payment fee of 5% on all amounts paid after the due date.
- 9.1.2 Charge interest on debts at 20% per annum from time to time.
- 9.1.3 Charge a dishonour handling fee in the amount of \$95.00.
- 9.1.4 Recover all collections costs and expenses incurred in collecting overdue accounts on an indemnity basis.
- 9.1.5 Withhold Supply
- 9.1.6 Sue for the money owing on the service provided.
- 9.2 In the event where this agreement has been entered into by more than one party, each party shall be jointly and severally liable for any amounts overdue.

10 Default

- 10.1 If the Client.
- 10.1.1 Fails to pay for any goods or services on the due date; or
- 10.1.2 Otherwise breached this agreement and failed to rectify such breach within seven days' notice; or
- 10.1.3 Cancel delivery of goods or services; or
- 10.1.4 Commits an act of bankruptcy or allows a trustee in bankruptcy or receiver and manager to be appointed to the Clients or any of its property; or
- 10.1.5 Allow a judgement or order to be enforced or become enforceable against the Clients property; or
- 10.1.6 Permits proceedings to be commenced to wind the Client up or controller, receiver, administrator, liquidator, or similar officers appointed to the Client in respect of any part of its property, then the Company may enter upon the Clients premises (doing all that is necessary to gain access) where good supplied under this contact are situated at any time any re-take possession of any or all of the goods the Company has supplied to the

Client and.

- 10.1.6.1 Resell the goods concerned
- 10.1.6.2 Terminate the agreement; and
- 10.1.6.3 Sue for any monies owing

- 10.2 The Clients will be in default in the Client does not pay any monies payable when called upon so to do the Client and the Guarantor jointly and severally acknowledge and agree that the Company is authorised to contact a credit reporting agency through the term of the Agreement to obtain a report about the creditworthiness of either the Client or the Guarantor or both.
- 10.3 The Client and the Guarantor jointly and severally authorise the Company to engage in the exchange of information with a credit reporting agency or with other such parties as are necessary to give effect to the contract and the ongoing relationship between the parties hereto.
- 10.4 The Company reserves the right to a report a Clients delinquent account to a credit reporting agency should payment remain outstanding for more than 60 days. In addition, the Company may refer the outstanding account for debt collection or issue legal proceeding to recover any outstanding invoices. Should an account be referred for debt collection the Client acknowledges and agrees to pay debt collection charges to be calculated and not less than 20% plus GST and will be incurred on the day the Company refers the matter to their nominated debt collection agency. The Client shall also be liable for interest and all legal recovery costs associated with such action on a solicitor and own Client or indemnity cost basis.

11 Charge

- 11.1 The Client charges in favour of the Company and land that it owns (or acquires after the date of this agreement) as security for any and all monies owed to the Company and hereby authorised and consents the Company registering a caveat over the land if the Client default in making payment of any amounts owing to the Company.

12 Right to amend terms and conditions

- 12.1 The Company reserves the right to amend terms and conditions of this agreement by giving the Client notice in writing of the amended terms and conditions to the Clients address as specified on the face of this agreement or as notified by the Client from time to time. The Client is deemed to accept any amended Terms and Conditions unless it notifies the Company in writing within seven days of its objection to the proposed amendment to the Terms and Conditions.



13 Set Off

- 13.1 The Client agrees that.
- 13.1.1 The Company may set-off any credit amount that the Company owes to the Client against any debt due by the Client to the Company at the Company's sole discretion.
- 13.1.2 The Client is not entitled to withhold payment of any money in respect of any alleged set-off or claim the Client might have against the Company.

14 Severance and Waiver

- 14.1 If any part of this agreement is found to be void, unlawful or unenforceable then that part will be deemed to be severed from the agreement and the severed part will not affect the validity and enforceability of any remaining provisions. Any waiver of the Company's right under this agreement must be in writing and signed by an authorised representative of the Company.

15 Jurisdiction

- 15.1 The agreement shall be deemed to have been made in Western Australia and shall be interpreted in accordance with the Laws of the State in which the work is carried out in, and the parties submit to the exclusive jurisdiction of the State Courts.

16 Consumer Credit Code

- 16.1 The Client and Guarantors declare that the credit to be provided is to be applied wholly or predominately for business purposes and not for personal, domestic household purposes.

17 Guarantee and Indemnity

- 17.1 In consideration of the Company at the request of the Guarantor entering into this agreement, the Guarantor unconditionally (and jointly and severally where there is more than one Guarantor).
- 17.1.1 Guarantees the Client's obligations; and
- 17.1.2 Indemnifies the Company against any loss or liability arising from or connected with the Client's obligations.
- 17.2 Each of the Guarantor's obligations.
- 17.2.1 Is a principal obligation and will not be treated as ancillary or collateral to any other right of obligation however created or arising.
- 17.2.2 May be enforced against the Guarantor without the Company first being required to exhaust any remedy it may have against the Client or to enforce any security it may hold with respect to the Client's obligations.

17.2.3 Is a continuing guarantee and indemnity of the whole of the Client's Obligations and is irrevocable and remains in full force and effect until discharged.

17.2.4 Will not be considered as wholly or partially discharged by the performance at any time of any of the Client's obligation or by any settlement of account or by any other matter or thing whatever and will apply to the present and future scope of the Client's Obligations.

17.3 The liability of the Guarantor is absolute and will not be affected by any act, omission, matter, or thing which but for the provision might operate to release or otherwise exonerate the Guarantor from the Guarantors obligations in whole or in part including:

17.3.1 The grant to the Client or any other person of anytime, waiver or other indulgence or concessions, or the discharge or release of any other security held by the Company in respect of the Client's Obligation.

17.3.2 Any transaction or arrangement that may take place between the Company and the Client, the Guarantor, or any other person.

17.3.3 The Company exercising or refraining from exercising any other security or any of the rights, powers or remedies conferred on it by law or by this agreement or any other agreement with any person or taking or failing to take any other security.

17.3.4 The variation (including a variation which increases the Client's obligations), extinguishment, unenforceability, failure, loss, release, discharged, abandonment or transfer within in whole or in part of this agreement, or any security now or in the future held by the Company from the Client, the Guarantor, or any other persons.

17.3.5 The Client's Obligations or any part of them being or becoming wholly or partially illegal, void, voidable, or unenforceable.

17.3.6 The failure by the Company to give notice to the Guarantor of any default by the Client under this agreement.

17.3.7 And legal limitation, disability, incapacity, or other circumstances related to the Client; or

17.3.8 The failure of any Guarantor to execute this Guarantee of the granting of this

Guarantee by any Guarantor being or becoming void or voidable.

- 17.3.9 This guarantee extends to cover this agreement as amended, varied, or replaced, wither with or without the consent of the Guarantor.
- 17.3.10 If the Client becomes insolvent, the Guarantor authorizes the Company to prove for all monies which the Client or any other person will have paid under this agreement and to retain and to carry into a suspense account and to appropriate at the discretion of the Company and dividends received in the insolvency of the Client and all other monies received in respect of the Clients' obligations until the Company has been paid in full respect of the Clients Obligations
- 17.3.11 The Guarantor charges in favour of the Company all its estate and interest in any land and in any other assets, whether tangible or intangible, in which it has any legal or beneficial interest in or in which it later acquires any such interest, with payment of all monies owed by the Client or the Guarantor and consent to the lodging by the Company's interest in or over any such land or other covetable property.