

TOOWOOMBA

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**BRISBANE**

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 Salisbury Qld 4107
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www.sedlagencies.com.au | ABN 30 087 808 857

CREDIT APPLICATION**1 GENERAL INFORMATION**

Entity Name:		
ABN:	ACN:	
Registered Address:		
Suburb:	State:	Post Code:
Full Trading Name:		
If the trading name is registered, when:		Registration Number:
Delivery Address:		
Suburb:	State:	Post Code:
Billing Address:		
Suburb:	State:	Post Code:
Business Phone:	Facsimile:	
Type of Business:		
Contact Person:	Position title:	
Purchasing Contact:	Email:	
Anticipated Monthly Purchase Volume	\$	(this is not a credit limit)

2 BUSINESS INFORMATION

Is the Applicant: (Please tick appropriate box and proceed as directed)	<input type="checkbox"/> A Sole Trader Go to A	<input type="checkbox"/> A Partnership Go to B	<input type="checkbox"/> A Company Go to C	<input type="checkbox"/> A Trust Go to D
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A SOLE TRADER

Full Name:	Date of Birth:	
Home Address:		
Suburb:	State:	Post Code:
Home Phone:	Drivers Licence No (copy attached):	

B PARTNERSHIP (If one Partner is a COMPANY please note Company Name below and complete section C instead of Bii)**i Partner One**

Full Name:	Date of Birth:	
Home Address:		
Suburb:	State:	Post Code:
Home Phone:	Drivers Licence No (copy attached):	

ii Partner 2

OFFICE USE ONLY	Sales Rep	P Cat	Credit Limit	PPSR	Date PPSR	Date Authorised	Acc Code	Date Entered
				Yes / No				

Full Name/Company Name:	Date of Birth:	
Home Address:		
Suburb:	State:	Post Code:
Home Phone:	Drivers Licence No (copy attached):	

C COMPANY

Company Name:	ABN:	
i Director One		
Full Name:	Date of Birth:	
Home Address:		
Suburb:	State:	Post Code:
Home Phone:	Drivers Licence No (copy attached):	
ii Director Two		
Full Name:	Date of Birth:	
Home Address:		
Suburb:	State:	Post Code:
Home Phone:	Drivers Licence No (copy attached):	
iii Director Three		
Full Name:	Date of Birth:	
Home Address:		
Suburb:	State:	Post Code:
Home Phone:	Drivers Licence No (copy attached):	

D TRUST

Name of Trust:	ABN of Trust:		
Type of Trust:	<input type="checkbox"/> Discretionary/Family	<input type="checkbox"/> Unit	<input type="checkbox"/> Hybrid
i Trustee			
Full Name:	Date of Birth:		
Home Address:			
Suburb:	State:	Post Code:	
Home Phone:	Drivers Licence No (copy attached):		

3 BANK DETAILS

Name:	Branch:		
Bank Address:			
Suburb:	State:	Post Code:	
Statements:			
Do you require a statement at month end?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Accounts Contact:	Phone Number:		
Email address:			
Please find Sedl Agencies' Bank Details for payment of your account below:			
Bank: Commonwealth	Account Name: Sedl Agencies Pty Ltd		
BSB: 064 459	Account Number: 102 187 21		

4 BUSINESS HISTORY AND TRADE REFERENCES

For Applicant and all of the Directors, Partners, Trustees and Sole Traders

Have any been declared bankrupt? Yes No

If yes, details:

Have any been involved in businesses that have failed or been liquidated? Yes No

If yes, details:

Names of related or subsidiary companies or partnerships:

References: must be current providers of commercial credit

i Name:	Address:	
Contact:	Phone:	Email:
ii Name:	Address:	
Contact:	Phone:	Email:
iii Name:	Address:	
Contact:	Phone:	Email:

5 TERMS OF CREDIT

Credit will not be provided until Sedl Agencies Pty Ltd (the "Supplier") accepts this application and provides confirmation to the Applicant. Normally that confirmation will be in writing.

If the Supplier accepts this application or otherwise provide credit to the Applicant, the provision of goods and services and credit facilities to the Applicant are subject to the Trading Terms and Conditions attached or as amended by the Supplier from time to time.

Notwithstanding the provision of any credit by the Supplier to the Applicant, the Supplier is not required to provide further credit to the Applicant either in the terms of the application or otherwise.

Sedl Agencies Pty Ltd ABN 30 087 808 857 includes any trade name under which its business is conducted.

6 EXECUTION

The person (and each of them if more than one) signing this application for and on behalf of the Applicant:

- Acknowledges receiving the Trading Terms and Conditions as attached;
- Agrees that they have read and understood those Trading Terms and Conditions;
- Agrees that the Applicant has been advised to seek legal and financial advice prior to signing this application;
- Agrees that the Trading Terms and Conditions apply to the provision of goods and services to the Applicant by the Supplier;
- Warrants to the Supplier that they have the requisite authority to execute the Application for and on behalf of the Applicant and to bind the Applicant to the Trading Terms and Conditions; and
- Warrants that where the Applicant is a trustee, the terms of the trust allow the trustee to make this application and enter into this arrangement;
- Declares that the credit to be provided to the Applicant by the credit provider is to be applied wholly or predominantly for business purposes or investment purposes other than investment in residential property; and
- Agree that email communications and notices may be given to addresses provided to the Supplier.

Please read before signing

If the Customer is a **company**, a director of the Company (or an authorised person) must sign, and by signing warrants that he/she is authorised to bind the Company.

If the Customer is a **partnership**, each partner of the Company must sign, and warrants that he/she binds the Partnership.

If the Customer is an **individual person**, that person must sign.

If the Customer is a **trust**, the trustee must sign, and warrants that he/she is authorised to bind the Trust and has the power to enter into the agreement on behalf of the trust under the terms of the trust deed. Additionally, the assets of the trust shall be available to meet payment of credit pursuant to this Application for Credit.

Name:	Signature:	Date:
Name:	Signature:	Date:

7 DECLARATION

Sedl Agencies Pty Ltd (ABN 30 087 808 857) (and its related entity (as that term is defined under the Corporations Act 2001) and its successors and assigns) ("**the Supplier**"), and the above Applicant and any guarantor is referred to as "**the Client**", "**the Applicant**", or "**I/We**"

DECLARATION – I/WE HEREBY:

- | | |
|--|---|
| <p>(a) WARRANT that the information supplied and representations made in this Application (both express and implied) are true and correct.</p> <p>(b) AGREE in the event that the enterprise conducted by the Applicant by I (as a sole trader); or We (as a partnership) is incorporated under the Corporations Act at a future date, TO BE JOINTLY LIABLE with such corporation for any debts incurred after the date of such incorporation by the corporation which results from that incorporation.</p> <p>(c) The Supplier may approve a credit limit that is higher or lower than the requested limit. The Supplier may, in its discretion, increase or reduce the approved limit or cancel credit at any time without notice to the Applicant. The approved limit as advised to the Applicant from time to time must not be exceeded.</p> <p>(d) The Supplier's trading terms are payment must be made within 30 days from the last day of the calendar month in which the relevant invoice is dated (or such other period as notified by the Supplier or the related entity) and payment must be made within that period without notice or demand.</p> <p>(e) ACKNOWLEDGE that we have read and understood the Terms and Conditions set out on the following pages, including without limitation the security clauses.</p> | <p>(f) OFFER to enter into an agreement on the terms and conditions with the Supplier.</p> <p>(g) ACKNOWLEDGE and accept the Privacy Note attached..</p> <p>(h) CONSENT to the use of information in accordance with the Privacy Note.</p> <p>(i) WARRANT that We have obtained the consent of any person whose personal information appears herein (if any) to the use of information in accordance with the Privacy Note.</p> <p>(j) ACKNOWLEDGE for the purposes of section 13 National Consumer Credit Code ("Code"), as having made this declaration before entering into the Agreement, and that the credit (if any) which is to be provided under the Agreement (if entered into) is not to be applied wholly or predominantly for personal, domestic or household purposes.</p> <p>(k) ACKNOWLEDGE that the Supplier may accept the Applicant's offer by giving written notice, or supplying goods and/or services on credit, to the Applicant.</p> |
|--|---|

Name:		Signature:		Date:	
Title: (Please tick appropriate box)	<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Partnership	<input type="checkbox"/> Company	<input type="checkbox"/> Trust	

Name:		Signature:		Date:	
Title: (Please tick appropriate box)	<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Partnership	<input type="checkbox"/> Company	<input type="checkbox"/> Trust	

8 GUARANTEE AND INDEMNITY

In consideration of **Sedl Agencies Pty Ltd (ABN 30 087 808 857)** (and its related entity (as that term is defined under the Corporations Act 2001) and its successors and assigns) ("**the Supplier**") at the request of the Guarantor, agreeing to sell or supply the above Client/ Applicant with goods and/or services on credit on the terms specified in the Commercial Credit Application ("**the Agreement**"), each person signing below as a guarantor ("**Guarantor**") jointly and severally agrees with the Supplier as follows:

To guarantee to the Supplier the punctual performance of all obligations of the Applicant pursuant to the Agreement including payment of all moneys due.

1. To indemnify the Supplier for all moneys due and owing to the Supplier pursuant to the Agreement as a primary liability.
2. A Guarantor's liability shall not be affected or discharged by:
 - (a) The Supplier granting time to or compromising with or releasing or granting any indulgence to the Applicant in respect of the payment of money or any other obligation to which the Applicant is bound;
 - (b) The cancellation by the Supplier of the Agreement;
 - (c) Any amendment made to the Agreement, with or without the consent of one or more Guarantors;
 - (d) Any variation made to the credit limit under the Agreement, with or without the consent of one or more Guarantors;
 - (e) Any disclaimer of the Agreement by the Applicant for any reason whatsoever and the Guarantor shall indemnify and hold the Supplier harmless against any loss which may result to the Supplier from any such disclaimer;
 - (f) The Applicant or any one or more Guarantors becoming bankrupt, being wound up, appointing a voluntary administrator, being subject to any form of external administration whatsoever or entering into an arrangement with its creditors, or the appointment of a liquidator, administrator, receiver, receiver and/or manager, or controller ("Controller") in respect of any assets or undertaking of the Applicant or any one or more Guarantors;
 - (g) The death of one or more Guarantors or by notice of such death;
 - (h) Any payment of money received by the Supplier which is subsequently void or voidable; or
3. The Guarantor
 - (i) Any failure by the Supplier to properly attach, perfect or continuously perfect any security interest against any collateral of the Applicant and/ or any one or more of the Guarantors (if more than one) or any other person.
 - (a) Hereby charges and creates a security interest in favour of the Supplier over all present, future and after acquired rights, title, interest, property and undertaking of the Guarantor including:
 - (i) any interest in real property, and
 - (ii) any personal property over which the Guarantor has the power to grant a security interest pursuant to the *Personal Property Securities Act 2009 (Australia)* (or acquires after the date of this agreement) as security for any and all monies and obligations owed to the Supplier under this Guarantee and Indemnity. The charge and security interest constitute a mortgage over such property and gives the Supplier the rights given to a mortgagee at law.
 - (b) The Guarantor authorises and consents to the Supplier registering a caveat over any such interest in real property if the Applicant or any Guarantor defaults in making payment of any amounts owing to the Supplier.
4. Each Guarantor acknowledges and agrees that the Terms and Conditions as attached are incorporated into this Guarantee as if the Guarantor was named in such terms in place of the Applicant.
5. Each Guarantor acknowledges and accepts the attached Privacy Note and consents to the use of information in accordance with the Privacy Note.
6. Each Guarantor acknowledges that it understands the full force and effect of these terms and has had a reasonable opportunity to obtain legal or other advice in respect of them or has waived that right.

Guarantor Signature:		Guarantor Signature:	
Print Name:		Print Name:	
Witness Signature:		Witness Signature:	
Print Name:		Print Name:	
Date:		Date:	

9 PRIVACY NOTE

Sedl Agencies Pty Ltd (ABN 30 087 808 857) (and its related entity (as that term is defined under the Corporations Act 2001) and its successors and assigns) ("**the Supplier**"), and the above Applicant and any guarantor is referred to as "**the Client**", "**the Applicant**" or "**I/We**"

PLEASE READ THE FOLLOWING AGREEMENTS CAREFULLY **BEFORE SIGNING** TO ENSURE COMPLIANCE BY THE CREDIT PROVIDER WITH THE PRIVACY ACT 1988 (COMMONWEALTH).

NOTE: The disclosed Credit Reporting Body (**CRB**) for the purposes of this application in accordance with Section 21C of the Privacy Act 1988 (Cth) and Section 5 of the Privacy (Credit Reporting) Code 2014 (Version 1.2) (**the Code**) may include **Equifax Australia Pty Limited ("Equifax")** and **Dun & Bradstreet (Australia) Pty Ltd** (in its own capacity and as trustee for various trusts, as well as its related entities as that term is defined under the Corporations Act 2001 ("DnB").

Under Section 21D of the Privacy Act 1988 (Cth) (**the Act**) the Supplier is permitted to disclose credit information as defined in Section 6N of the Act and Section 5 of the Privacy (Credit Reporting) Code 2014 (Version 1.2) (**the Code**) about the Applicants to a CRB, including but not limited to Equifax and DnB, if the information relates to consumer credit or commercial credit that has been provided, or applied for, in Australia.

Under Section 21M of the Act, the Supplier is permitted to disclose to debt collectors credit eligibility information about the Applicants and any Guarantors. The type of credit eligibility information the Supplier is permitted to provide to debt collectors is outlined in Section 21M(2) of the Act and includes identification information, information on court proceedings, personal insolvency information and default information as defined by the Act. Under the Act identification information particulars include your full name (including any known previous alias), date of birth, sex, current address or last known address (including your two (2) previous addresses (if applicable)), the name of your most recent or current employer and/or your driver's licence number.

I/We expressly consent to the Supplier in connection to a commercial credit related purpose, disclosing credit information about me/us to a CRB, including but not limited to Equifax and DnB, pursuant to Section 21D of the Act and obtaining credit reporting information about me/us from a

CRB in relation to commercial credit that I/we have been provided, or applied for under Section 20F of the Act.

I/We expressly consent to the Supplier disclosing credit eligibility information about me/us to a person for the purpose of that person considering whether to offer to act as a guarantor in relation to the credit, or to offer property as security in relation to commercial credit that has been provided, or applied for, under Section 21K of the Act.

I/We expressly consent to the Supplier disclosing credit eligibility information about me/us to the Guarantor(s) in relation to credit provided by the Supplier to me/us; or has provided property as security for such credit in relation to commercial credit that has been provided, or applied for, under Section 21K of the Act.

I/We expressly consent to disclosure by the Supplier or an agent acting under the authority of the Supplier of credit eligibility information about me/us to another credit provider or an agent acting under the authority of another credit provider for a commercial credit related purpose pursuant to Section 21J of the Act and Section 5 of the Code.

I/We understand my/our credit eligibility information may be disclosed in connection to commercial credit related purposes including assessing my/our application for commercial credit made to the Supplier; or collecting payments that are overdue in relation to commercial credit provided by the Supplier to me/us

10 TERMS AND CONDITIONS OF TRADE

- 1. Definitions**
 - 1.1 In this Agreement, terms as defined have the meaning as follows:

"Agreement" means this agreement inclusive of the application for credit together with any agreement for the provision of goods or of services by the Supplier to the Customer or for the Supplier to otherwise extend credit to the Customer and whether the provision of goods or services is by or on credit or not;

"Customer" means the Applicant being the person, jointly and severally if more than one, acquiring goods, services or credit from the Supplier;

"goods" means all personal property and other goods supplied or to be supplied by the Supplier to the Customer (and where the context so permits includes Services);

"GST" means the Goods and Services Tax as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended;

"includes" in any form is not a word of limitation;

"intellectual property" has its usual meaning;

"person" includes a company or other form of body corporate;

"PPSA" means the *Personal Property Securities Act 2009* (Cth) as amended;

"Premises" means any place at which services are to be performed or goods are placed stored or kept or to which they are delivered;

"services" means services supplied or to be supplied by the Supplier to the Customer;

"product description" means all photographs, drawings, illustrations, descriptive matter and particulars contained in the Supplier's catalogues, price lists and marketing documents;

"Security Interest" means any form of security Interest under the PPSA including, without limitation, a Purchase Money Security Interest

"Supplied" means the sale, consignment, lease or bailment of goods by the Supplier to or at the request of the Applicant in the ordinary course of the Supplier's business.

"Supplier" means Sedl Agencies Pty Ltd (ABN 30 087 808 857) and each of its divisions, subsidiaries, associated companies and related entities and any trade name under which its business is conducted;

"Terms" means these Trading Terms and Conditions as set out in and forming part of this Agreement.
 - 1.2 Any terms defined in relevant legislation or law (including any subordinate law, rule, regulation or instrument) shall have the meaning as provided in that legislation or law as it may apply to this Agreement and any supply under it.
 - 1.3 Reference to a gender includes any other gender and the singular includes the plural where appropriate.
 - 1.4 In all cases, terms will have the meaning provided for them unless that would result in an absurd or uncertain meaning in which case the usual meaning of that term shall be given or applied.
- 2. Terms of Agreement**
 - 2.1 Unless otherwise agreed by the Supplier in writing, these Terms apply exclusively to this Agreement to the exclusion of any other agreement, including any terms and conditions of purchase which the Customer may seek to import into the Agreement.
 - 2.2 Unless stipulated otherwise by the Supplier in a quotation, any quotation provided by the Supplier to the Customer for the proposed supply of goods or services is:
 - (a) valid for 7 days;
 - (b) an invitation to treat only; and
 - (c) only valid if in writing.
 - 2.3 A quotation may include additional terms which will over-ride these Terms.
 - 2.4 An agreement is accepted by the Supplier when the Supplier accepts, in writing or by electronic means, an offer from the Customer or provides the Customer with the goods or services.
 - 2.5 The Supplier is not bound to accept any offer.
 - 2.6 The Supplier is not taken to have been aware of any requirements or specifications of the Customer unless the Customer has specifically provided such requirements or specifications to the Supplier in relation to any goods or services to be provided by the Supplier to the Customer and the Supplier has agreed to such requirements or specifications.
 - 2.7 Where the Customer is required to do anything by these Terms, time shall be of the essence in the performance of that requirement.
- 3. Prices**
 - 3.1 The Customer must pay to the Supplier GST and any other taxes or duties imposed on the supply of goods and services at the rate payable by the Supplier as prescribed by law.
 - 3.2 The Supplier will provide a tax invoice to the Customer as and in any form required by law.
 - 3.3 The Supplier may from time to time publish a list of prices for goods and services sold, distributed or otherwise provided by it but may vary such prices in its discretion and without prior notice particularly having regard to any changes in costs of supply or delivery of those goods or services.
- 4. Payment**
 - 4.1 Unless previously agreed in writing by the Supplier, the Customer is required to make payment for all goods or services within 30 days from the last day of the calendar month in which the relevant invoice is dated.
 - 4.2 Notwithstanding the provisions of clause 4.1, the Supplier may require payment in full on delivery of any goods or upon the completion of the provision of the services.
 - 4.3 Where payment is made by cheque or other form of negotiable instrument, electronic transfer or credit, the payment is deemed not to have been made unless and until the proceeds of the payment have been cleared and received irrevocably by the Supplier and notwithstanding any receipt issued or other credit made in the Supplier's books of account.
 - 4.4 Where any payment is made by cheque or any other form of payment which is not honoured or cleared on presentation or is otherwise not paid, the Customer must pay to the Supplier on demand any costs, charge or expense including bank dishonor fees incurred by the Supplier and also including any administrative cost incurred or sustained by the Supplier as a result of such non payment which amount at the date of this agreement inclusive of both bank dishonor fees and administrative fees is \$27.50 inclusive of GST but subject to change from time to time.
- 5. Product Descriptions**
 - 5.1 Any product descriptions provided by the Supplier to the Customer from time to time are indicative only and may not be current nor accurate at the time of supply.
 - 5.2 The Customer acknowledges that unless in any given case, the Customer and the Supplier agree in respect of a particular supply or supplies, the Customer does not rely on the Supplier's product description in making any decision to purchase goods or acquire services from the Supplier.
- 6. Intellectual Property**
 - 6.1 The Customer acknowledges that the Customer acquires no proprietary right or interest in any intellectual property as a result of any supply under this Agreement.
- 7. Warranties**
 - 7.1 Any warranties given by the Supplier with respect to the goods are set out on the packaging in which the goods are supplied or in enclosures supplied with the goods.
 - 7.2 Except as provided in the previous clause or as mandated by law, the Supplier does not warrant the goods in any way.
- 8. Liability**
 - 8.1 Except as these Terms specifically provide, or as contained in any express warranty provided in relation to any particular goods or services, this Agreement does not include by implication any other term, condition or warranty in respect of the quality, merchantability, acceptability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or services or any contractual remedy for their failure.
 - 8.2 Where the Customer is a consumer, nothing in these Terms restricts, limits or modifies the Customer's rights or remedies against the Supplier for failure of a statutory guarantee under the Australian Consumer Law.
 - 8.3 Where the Customer resupplies any goods to a consumer and the Supplier has any liability to any person then the amount of that liability is restricted to the amount specified by the Australian Consumer Law arising under or in connection with the sale, installation, use of, possession of, storage of, or any other dealings with the goods or services by the Customer or any third party.
 - 8.4 If neither clause 8.2 nor clause 8.3 applies, then other than as stated in these Terms or any written warranty statement, the Supplier is not liable to the Customer in any way howsoever arising under or in connection with the sale, installation, use of, possession of, storage of, or any other dealings with the goods or services by the Customer or any third party.
 - 8.5 The Supplier is not liable for any indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party, except to the extent of any liability imposed by the Australian Consumer Law.
 - 8.6 The Customer acknowledges that any advice given by the Supplier is general in nature and the Customer should determine whether the goods and any service is appropriate for the Customer's purposes.
 - 8.7 Nothing in these Terms is to be interpreted as excluding, restricting or modifying the application of any law applicable to the sale of goods or supply of services where it is not lawful to exclude, restrict or modify that law.
- 9. Cancellation**
 - 9.1 Where the Supplier is unable to deliver or provide the goods or services in any particular case whether through circumstances outside the Supplier's control or otherwise, then the Supplier may cancel the Customer's order (even if it has been accepted) by verbal or written notice to the Customer.
 - 9.2 Where an order by the Customer has been accepted, then the Customer has no right to cancel, defer or suspend the order or any part or parts of it without the Supplier's written consent.
- 10. Delivery of Goods**
 - 10.1 The Supplier will use its reasonable endeavours to meet any estimated dates for delivery of goods but the Supplier is not liable for any loss or damage whether direct or consequential suffered by the Customer or any other person for the Supplier's inability or failure to meet any estimated date for delivery
 - 10.2 The Supplier will arrange for the delivery of the goods to the Customer where the Supplier is requested to do so by the Customer.
 - 10.3 Unless otherwise agreed, the Customer is responsible for all costs associated with delivery, including freight, insurance and other charges arising from the point of dispatch of the goods to the Customer to the point of delivery.
 - 10.4 The Supplier is entitled to make part delivery of any goods and services and may invoice the Customer for that part of the goods and services so delivered or completed as and when that occurs.
 - 10.5 The Customer will indemnify and keep the Supplier indemnified against any loss or

- damage suffered by the Supplier, its agents, contractors or employees as a result of any delivery, except where the Customer is a consumer and the Supplier has not used the appropriate due care and skill.
- 10.6 If any delivery is attempted by the Supplier or its agent, contractors or employees but such delivery is unable to be completed through no fault of the Supplier, the Customer may, at the Supplier's option, be deemed to have taken delivery of the goods.
- 10.7 If it is intended that the Customer will collect any goods from time to time:
- the Customer must collect the goods within 7 days of the Customer being advised that the goods are available for, and the place for collection; and
 - if the Customer does not collect the goods within that time, the Customer, at the Supplier's option, may be deemed to have taken delivery of the goods.
- 10.8 Whenever delivery of the goods is taken or deemed to have been made by the Supplier to the Customer but the goods remain in the physical possession of the Supplier, the Customer is liable for storage charges at the Supplier's usual rates in respect of such items payable monthly on demand.
- 11. Access to Premises**
- 11.1 Where it is necessary for the Supplier to undertake any activities including delivery on Premises other than those operated, owned or controlled by the Supplier, the Customer must provide suitable and practical means of access to the Premises and ensure that the Premises are in a condition which allows for the safe and effective provision of the services and irrespective of whether those Premises are owned, leased or otherwise occupied by the Customer.
- 11.2 The Customer indemnifies the Supplier and will keep the Supplier indemnified against any loss or damage suffered by the Supplier, its agents, contractors or employees as a result of providing the services, except where the Customer is a consumer and the Supplier is not entitled to the benefit of such an indemnity such as where the Supplier or those acting for it have not used appropriate care and skill.
- 11.3 Where the Supplier provides services at the Premises, the Customer warrants that it is either the owner of the Site or otherwise has the requisite power or authority on behalf of or for the owner or lawful occupier to allow the services be conducted at the Site.
- 11.4 The Customer warrants that there exist or it has all of the required permissions, permits, approvals and authorisations for the provision of services at the Premises.
- 11.5 Where the Supplier provides services at the Premises, Supplier does not accept any ownership of or responsibility for the Premises and all risk and liability in and relating to the Premises including in relation to workplace health and safety remains with the Customer at all times.
- 12. Defects in Delivery or Supply**
- 12.1 Where the Customer claims that there is any damage to any goods delivered to the Customer or if there is any shortfall in delivery or in any other respect there has been non-compliance by the Supplier with this Agreement or any order pursuant to the Agreement, such claim or claims must be made in writing to the Supplier within 7 days of that delivery or supply whether being in respect of goods or the provision of services.
- 12.2 In the absence of any such claim, the Supplier is not liable for any damage, shortfall or non-compliance by the Supplier with this Agreement or any order pursuant to the Agreement and the Customer is deemed to have accepted the goods or services.
- 12.3 If any claim for damaged goods, a shortfall in supply, non-compliance with this Agreement or any order pursuant to this Agreement is accepted by the Supplier, the Supplier may, at the Supplier's own option as the case may require repair the goods, replace the goods, re-provide services or refund the price of the goods or services.
- 12.4 Subject to any rights given to the Customer as a consumer, the Supplier will not under any circumstances be obliged to accept goods for return that:
- have been specifically produced, imported or acquired to fulfill the Agreement;
 - are discontinued goods or are no longer stocked by the Supplier;
 - have been altered in any way;
 - have been used or damaged; or
 - are not in their original condition and packaging.
- 12.5 Where the Customer is a consumer, nothing in this clause 12 limits any remedy available to the Customer for a failure of any statutory guarantee in favor of the Customer as prescribed by the Australian Consumer Law.
- 13. Risk**
- 13.1 The risk in the goods for any reason whatsoever but including without limitation for theft or damage from fire, water, storm, accident, malicious damage or any other cause will pass to the Customer immediately on the goods being delivered to the Customer or collected or dispatched from the Supplier's premises.
- 13.2 The Customer has sole responsibility for insuring the goods against risk in accordance with clause 13.1 and notwithstanding that ownership in the goods may not have passed to the Customer at the time of delivery, collection or dispatch.
- 13.3 The Customer is responsible for obtaining at the Customer's cost all necessary licenses or permits required by law in relation to the goods coming into possession or control of the Customer and at the risk of the Customer.
- 13.4 The Customer assumes all risk and liability for loss, damage or injury to persons or to property of the Customer, or third parties arising out of the use, installation, storage or possession of any of the goods sold by the Supplier, unless recoverable from the Supplier on the failure of any statutory guarantee under the Australian Consumer Law.
- 14. Force Majeure**
- 14.1 The Supplier is not liable in any way howsoever arising under the Agreement to the extent that the Supplier is prevented from complying with any of its obligations, duties or responsibilities under this Agreement as a result or consequence of events beyond the Supplier's reasonable control, including, without limitation, lack of ability to supply for any reason, acts of God including fire, storm, rain, flood, earthquake and tsunami, disease, acts or threats of terrorism, or acts of war or police action, industrial disputes, strikes, lockouts, accident, breakdown, import or export restrictions or government or regulatory moratorium or restriction.
- 14.2 Where an event of force majeure occurs, the Supplier may suspend or terminate the Agreement in any particular case or generally by written notice to the Customer.
- 15. Customer's Default**
- 15.1 If the Customer does not pay any amount payable to the Supplier by the due date for payment or if the Customer is otherwise in default of the Customer's obligations under these Terms, then at the option of the Supplier all money payable by the Customer to the Supplier at any time and on any account becomes immediately due and payable without the requirement of any notice to the Customer, and the Supplier may, without prejudice to any of its other rights do any one or more of:
- charge the Customer interest on any sum due and unpaid at the rate of 18% per annum for the period from the due date until the date of payment in full which interest is calculated on daily balances and capitalized and charged monthly in arrears on the last day of each calendar month;
 - cease or suspend supply of any further goods or services to the Customer either absolutely or for such period as the Supplier sees fit;
 - by written notice to the Customer, terminate any uncompleted contract with the Customer or otherwise terminate this Agreement.
- 15.2 If the Customer is in default of the Customer's obligations under this Agreement for any reason whatsoever, the Customer must indemnify the Supplier from all costs and expenses (including without limitation all legal costs and expenses on an indemnity basis as well as any mercantile agency or credit collection fees and charges) incurred by the Supplier or any person acting on behalf of the Supplier resulting from the Customer's default or any action taken whether in a Court or otherwise to enforce the Supplier's rights under these Terms including in seeking to recover any goods supplied by the Supplier.
- 15.3 The Customer is also in default of the Customer's obligations under these Terms:
- where the Customer or any of them is a natural person and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of that Customer's creditors or any class of that Customer's creditors generally; or
 - where the Customer or any of them is a corporation and that corporation enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, administrator, receiver, manager, receiver and manager or controller appointed in respect of its assets or any of them, or any action is taken for, or with the view to, the administration, liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer.
- 16. Title to Property**
- 16.1 Unless and until the Supplier receives full payment for all goods and services supplied by the Supplier to the Customer:
- title and property in all goods remains vested in the Supplier and does not pass to the Customer on delivery or otherwise;
 - the Customer holds the goods as a bailee and for the Supplier;
 - the Customer must keep the goods separate from any other goods of the Customer until those goods are used by the Customer; and
 - the Customer must maintain the Supplier's labelling and packaging in respect of the goods including any label, badge or marking identifying the goods as having been supplied by the Supplier.
- 16.2 In addition to any rights the Supplier may have under the PPSA or otherwise at law, in the event of default of this Agreement by the Customer, the Supplier may without notice, enter any premises where it knows or suspects the goods are and remove them, notwithstanding that those goods may have been attached to other goods and whether or not those other goods are the property of the Supplier or the Customer or not.
- 16.3 For the purposes of Clause 16.2 and in the event of the default by the Customer under this Agreement, the Customer irrevocably grants the Supplier and all persons acting under the authority of the Supplier a license to enter the premises where goods are situated and the Customer also indemnifies the Supplier and all persons acting under the authority of the Supplier from and against all costs, claims, demands or actions by any party arising from such action.
- 17. Retention of title, Consignment and Lease or Bailment of Goods**
- 17.1 The title and property in all goods sold by the Supplier to the Customer remains vested in the Supplier will only pass upon payment to the Supplier for the goods so sold in full;
- 17.2 If the Supplier supplies the Customer with any goods to hold on consignment (whether as a "commercial consignment" as that term is defined under the PPSA or other consignment) either for subsequent use by the Customer in its business or to be sold by the Customer as agent for the Supplier:
- title and property in all goods remains vested in the Supplier and does not pass to the Customer on delivery;
 - title and property in all goods remains vested in the Supplier and where the goods are used by the Customer in its business, title and property in the goods will only pass upon payment to the Supplier for the goods so used in full;
 - the Customer holds the goods (including any storage receptacle, cupboard or container) as a bailee and for the Supplier;
 - the Customer must keep the goods separate from any other goods of the Customer until the goods are used or sold by the Customer;
 - the Customer must care for and store such goods so that they do not deteriorate or otherwise become damaged or lost;
 - the Customer must maintain the Supplier's labelling and packaging in respect of the goods including any label, badge or marking identifying the goods as having been supplied by the Supplier; and
 - any proceeds the Customer receives for the sale of the goods are held by the Customer on trust for the Supplier to the extent of the cost of supplying the goods (including GST) to the Customer.
- 17.3 The Supplier will replace or restock the goods from time to time and for that purpose:
- the Supplier may require the Customer to provide an account of goods sold or used in the Customer's business from time to time by the Customer;
 - the Supplier may enter upon the Customer's premises at any reasonable time without notice to inspect the supplies of goods and to take an account of stock held;

- (c) each replacement or restocking shall constitute a redelivery of the entire stock of goods on consignment;
- (d) the Supplier may invoice the Customer for the usual cost of such additional goods as supplied; any goods lost, unaccounted for or damaged and unsaleable shall be deemed sold by the Customer and the Supplier shall be entitled to be paid for the supply of them; and
- (e) payment shall be made by the Customer for any invoice in accordance with Clause 4.1
- 17.4 For the purposes of Clause 17.2 and in the event of the default by the Customer under this Agreement or the termination of the consignment agreement, the Customer irrevocably grants the Supplier and all persons acting under the authority of the Supplier a license to enter the premises where goods are situated and the Customer also indemnifies the Supplier and all persons acting under the authority of the Supplier from and against all costs, claims, demands or actions by any party arising from such action.
- 17.5 The Supplier may terminate the consignment agreement at any time and for any reason.
- 17.6 The Client and the Supplier agree and acknowledge that:
- (a) by virtue of this Agreement, and the lease, hire or bailment of goods by the Supplier to or at the Request of the Customer, a PPS lease Security Interest is granted by the Client to the Supplier under the PPSA in the goods, and
- (b) The Supplier may terminate the PPS lease agreement at any time and for any reason.
- 18. Personal Property Securities Act**
- 18.1 The PPSA applies to these Terms except as it may be specifically excluded in or modified by these Terms.
- 18.2 The Customer consents to and acknowledges that these Terms comprise a security agreement and the Supplier has and is granted a Security Interest/s in all present and future personal property including goods, supplied by the Supplier to the Customer and the proceeds of those goods in the terms of this Agreement and by granting such Security Interest/s the Customer charges all such property with such Security Interest/s.
- 18.3 The Security Interest/s created by this Agreement or by virtue of the PPSA is a continuing interest irrespective of whether there are monies or obligations owing by the Customer at any particular time.
- 18.4 In all other respects the Supplier has a Security Interest/s in relation to the goods supplied by the Supplier to the Customer.
- 18.5 The Customer must do whatever is necessary in order to allow the Supplier to perfect any Security Interest/s over the goods and their proceeds including to enable such Security Interest to be registered on the PPSA Register.
- 18.6 Any Security Interest arising under this Agreement or the PPSA attaches to the goods when the Customer or their agent obtains actual or apparent possession of the goods by collection or dispatch from the Supplier's premises or when the goods are actually delivered to the Customer (as determined by this Agreement) whichever is the earlier and not at any later time.
- 18.7 The Applicant and the Supplier contract out of the provisions of sections 95, 96, 117, 118, 121(4), 130, 132(3)(d), 132(4), 142 and 143 of the PPSA and nothing in those provisions will apply to this Agreement.
- 18.8 The provisions of this Agreement do not diminish or limit any other entitlement or right that the Supplier may have by law and to the extent permitted by the PPSA, the Customer agrees that any provisions of the PPSA which are for the benefit of the Customer or which place obligations on the Supplier will apply only to the extent that they are mandatory or the Supplier agrees to their application in writing.
- 18.9 The Customer must at the Supplier's request:
- (a) do all things and execute all documents necessary and within the Customer's power or control to give effect to any Security Interest created under this Agreement; and
- (b) use the Customer's reasonable endeavors to procure from any person considered by the Supplier to be relevant to its security position such agreements and waivers as the Supplier may at any time require.
- 18.10 The Customer has the right to sell the goods in the course of business for the account of the Supplier and may pass clear title in the goods to bona fide buyers for value without further notice of the rights of the Supplier. Disposal of the goods however by the Customer to a third party (whether by sale, lease, consignment or otherwise) for further disposal by the third party is not permitted unless the Customer and the Supplier have entered into a distribution agreement in terms satisfactory to the Supplier.
- 18.11 A payment by the Customer or any other money paid or received by the Supplier pursuant to these Terms may be appropriated or attributed by the Supplier in any

way it chooses, regardless of any contrary stipulation, requirement or endorsement made by the Customer on or accompanying any payment by or on behalf of the Customer but without limiting the previous provisions of this clause, the Supplier may apply any such payment:

- (a) first to satisfy an obligation that is not secured;
- (b) second to satisfy an obligation that is secured, but not by a Purchase Money Security Interest;
- (c) third to satisfy an obligation that is secured by a Purchase Money Security Interest for that obligation and using proceeds from the sale of the collateral subject to that Purchase Money Security Interest; and
- (d) fourth to satisfy an obligation that is secured by a Purchase Money Security Interest using funds or proceeds from any source.

- 19. Set-off**
The Supplier may, without notice, set-off any amount or obligation owing (whether actual or contingent) by the Applicant to the Suppliers under any agreement or otherwise against any amount owing by the Suppliers to the Applicant (whether actual or contingent).
- 20. Existing Agreements, Applicants and security interests - Transitional and Non-transitional PPSA security interests**
Where the Applicant has previously entered into an agreement with the Supplier for the supply of goods (**Existing Agreement**):
- 20.1 Upon any order being made by the Applicant for the supply of goods after the first provision of this document to the Applicant these Terms shall apply to such supply and any subsequent supply of goods;
- 20.2 Any order made by the Applicant shall not constitute a new security agreement as between the parties, but only further performance of these Terms unless expressly excluded in writing signed by the Supplier; and
- 20.3 This Agreement will not act as a merger of their rights but that the terms contained under such Existing Agreement will be amended by the terms contained herein to the extent of any inconsistency.
- 21. Notices**
- 21.1 A notice from one party or person to another including any invoice or statement must be in writing and handed personally or sent by ordinary prepaid post, facsimile or email to the last known address of the party or person.
- 21.2 Notices sent by pre-paid post are deemed to be received two business days after posting. Notices sent by facsimile or email are deemed received upon confirmation of successful transmission.
- 21.3 That in addition to any other means permitted by law, any documents, notifications or court proceedings may be given or served upon the Applicant, its successors and permitted assignees in the same manner as any notice or document may be given under Part 8.5 of the PPSA and will be deemed so given or served;
- 22. Acceptance**
Signing of these Terms or placing an order after receipt of this document (whichever is the earlier) is deemed to be acceptance by the Applicant of these Terms.
- 23. Miscellaneous**
- 23.1 The law of Queensland from time to time governs this Agreement.
- 23.2 The parties agree to the non-exclusive jurisdiction of the courts and tribunals of Queensland, the Federal Court of Australia, and of courts entitled to hear appeals from those Courts.
- 23.3 Any failure by the Supplier to enforce any of this Agreement or any default by the Customer shall not be construed as a waiver of any of the Supplier's rights under this Agreement or at law.
- 23.4 If a clause of this Agreement is unenforceable it must be read down so as to be enforceable or, if it cannot be so read down, it must be severed from this Agreement without affecting the enforceability of the remaining terms and conditions.
- 23.5 The Applicant waives the right to receive a copy of the verification statement confirming registration of a financing statement, financing change statement or notice of assignment relating to the security interests under this Agreement.
- 23.6 The Applicant and the Supplier agree that the terms of this Agreement may be altered unilaterally by the Supplier giving 14 days' written notice to the Applicant. Clerical errors are subject to correction without notification.
- 23.7 The Applicant hereby consents to and appoints the Supplier to be an interested person and their authorized representative for the purposes of section 275(9) PPSA.
- 23.8 That the benefit of this Agreement and the Security Interest/s granted to the Supplier may be assigned by the Supplier, but not by the Applicant