

The terms and conditions set out below will apply to credit extended by The Seller comprising EIA Services Pty Limited, (The Seller) and the signed Application will be evidence of the Customer's agreement to these Terms & Conditions

## 1. Definitions

- 1.1 **Application** means the application for credit completed and signed by the Customer and accepted by The Seller including the terms of any guarantee attached to these Terms & Conditions;
- 1.2 **CCA** means the *Competition and Consumer Act 2010* (Cth) as amended;
- 1.3 **The Seller** means **EIA Services Pty Ltd** its successors and assigns or any person acting on behalf of and with the authority of The Seller;
- 1.4 **Credit Limit** means the credit limit for any account of the Customer approved by The Seller;
- 1.5 **Customer** means the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any Application or other form as provided by The Seller to the Customer together with their successors and assigns;
- 1.6 **Guarantor** means that person (or persons) who agrees to be liable for the debts of the Customer on a principal debtor basis as set out in the Application;
- 1.7 **Goods** mean all goods supplied by The Seller to the Customer from time to time and are as described on any order, invoices, quotation or any other forms as provided by The Seller to the Customer;
- 1.8 **PPSA** means the *Personal Property Securities Act 2009* (Cth) as amended;
- 1.9 **PPSR** means the Personal Property Securities Register;
- 1.10 **Price** means the price payable for the Goods as agreed between The Seller and the Customer in accordance with clause 3 of the Terms & Conditions; and
- 1.11 **RFC** means The Seller's current return for credit application submitted pursuant to these Terms & Conditions; and
- 1.12 **Terms & Conditions** means the Application, the guarantee attached to the Application, any invoice, these terms and conditions and any other documentation relating to the supply of the Goods and attached to these Terms & Conditions and signed by the Customer and The Seller.

## 2. Acceptance

- 2.1 The Customer acknowledges that the supply of Goods on credit will not take effect until the Customer has completed the Application with The Seller and the Customer has been approved with a Credit Limit. A new Application must be completed if there has been no supply of Goods for more than two (2) years.
- 2.2 In the event that the supply of Goods request exceeds the Customer's Credit Limit and/or the account exceeds the payment terms, The Seller reserves the right to refuse supply and/or delivery of any Goods or require payment on a cash on delivery basis.
- 2.3 Any instructions received by The Seller from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by The Seller will constitute acceptance of these Terms & Conditions.
- 2.4 Upon acceptance of these Terms & Conditions by the Customer the Terms & Conditions are binding and can only be varied with the written consent of both The Seller and the Customer.
- 2.5 Where more than one (1) Customer has entered into these Terms & Conditions, the Customers will be jointly and severally liable for all payments of the Price.
- 2.6 The Customer will give The Seller not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, facsimile number, or business practice). The Customer will be liable for any loss incurred by The Seller as a result of the Customer's failure to comply with this clause.
- 2.7 Goods are supplied by The Seller only on these Terms & Conditions to the exclusion of anything to the contrary in the terms of the Customer's order notwithstanding that any such order is placed on terms that purport to override these Terms & Conditions unless such terms and conditions have been varied in accordance with this clause.

## 3. Price and Payment

- 3.1 At The Seller's sole discretion the Price will be either:
  - 3.1.1 as indicated on invoices or statements provided by The Seller to the Customer in respect of Goods supplied or delivered; or
  - 3.1.2 The Seller's price for the Goods as at the date of delivery of the Goods according to The Seller's current advertised price list.
- 3.2 The Seller may request payment by the Customer of a non-refundable deposit prior to the supply or delivery of the Goods.
- 3.3 The Seller reserves the right to change the Price in the event of a variation (including but not limited to a request by the Customer to modify the Goods) to the Seller's quotation.
- 3.4 The Seller may, in its sole discretion, require payment of the Price by the Customer either prior to or on delivery of the Goods.
- 3.5 Payment of the Price will be as stated on the invoice or any other form provided by The Seller to the Customer. If no time for payment of the Price is stated, then payment of the Price will be that date which is seven (7) days following the date of the relevant invoice or statement (as the case may be).
- 3.6 Payment of the Price must be made by cash, personal cheque, bank cheque, credit card, direct credit, or by any other method as agreed to between the Customer and The Seller. Any payment of the Price by credit card may incur a surcharge of up to Two-point five percent (2.5%) of the Price.
- 3.7 Unless otherwise stated, GST and other taxes and duties that may be applicable to the supply of the Goods by The Seller will be added to the Price.

## 4. Delivery of Goods

- 4.1 At The Seller's sole discretion, delivery of the Goods will take place when:
  - 4.1.1 the Customer takes possession of the Goods at The Seller's nominated business address; or

- 4.1.2 the Customer takes possession of the Goods at the Customer's nominated address (in the event that the Goods are delivered by The Seller or The Seller's nominated carrier); or
- 4.1.3 the Customer's nominated carrier takes possession of the Goods in which event the carrier will be deemed to be the Customer's agent.
  - 4.2 The cost of delivery of the Goods will be either:
    - 4.2.1 included in the Price; or
    - 4.2.2 in addition to the Price; or
    - 4.2.3 for the Customer's account,
 and will be advised to the Customer prior to delivery of any Goods.
  - 4.3 The Customer shall supply the Seller with written delivery instructions within seven (7) working days of being advised by the Seller that the Goods are ready for delivery. If the Customer fails to provide the Seller with delivery instructions within the specified time the Seller shall be entitled to charge the Customer a reasonable fee for storage.
  - 4.4 The Customer will make all arrangements necessary to take delivery of the Goods on the day and time nominated by The Seller. In the event that the Customer is unable to take delivery of the Goods at the nominated day and time, The Seller will be entitled to charge a reasonable fee for redelivery of the Goods.
  - 4.5 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of these Terms & Conditions.
  - 4.6 The Seller may, in its sole discretion, deliver the Goods by separate installments. Each separate installment will be invoiced by The Seller and paid by the Customer in accordance with these Terms & Conditions.
  - 4.7 The Customer will take delivery of the Goods notwithstanding that the quantity so delivered may be either greater or lesser than the quantity ordered by the Customer provided that:
    - 4.7.1 such discrepancy in quantity does not exceed five percent (5%); and
    - 4.7.2 the Price is adjusted pro rata to the extent of the discrepancy.
  - 4.8 Where the Customer expressly requests The Seller to either:
    - 4.8.1 leave Goods outside The Seller' nominated business premises for collection; or
    - 4.8.2 to deliver the Goods to an unattended location,
 such Goods will be left at the nominated location at the Customer's sole risk.
  - 4.9 Any failure or delay in delivery of the Goods by The Seller will not entitle either party to treat the Terms & Conditions as repudiated.
  - 4.10 The Seller will not be liable for any loss or damage whatsoever due to any failure by The Seller to deliver the Goods (or any of them) promptly or at all, where such failure is due to circumstances beyond the control of The Seller.

## 5. Title

- 5.1 The Seller and the Customer agree that title in and to the Goods will not pass until:
  - 5.1.1 the Customer has paid The Seller all amounts owing for any Goods supplied by The Seller; and
  - 5.1.2 the Customer has met all other obligations due by the Customer to The Seller in respect of all invoices and contracts as and between The Seller and the Customer.
- 5.2 The Seller's title or rights in the Goods will continue until any form of payment by a Customer has been received, honored, cleared or acknowledged by The Seller.
- 5.3 The parties acknowledge and agree as follows:
  - 5.3.1 Where practicable, the Customer will keep the Goods separate and identifiable until The Seller has received payment in accordance with these Terms & Conditions and all other obligations of the Customer have been complied with;
  - 5.3.2 Until such time as title in and to the Goods passes from The Seller to the Customer pursuant to these Terms & Conditions, The Seller may give notice in writing to the Customer to return the Goods or any of them to The Seller. Upon receipt of such notice by the Customer, any right of the Customer to title or any other interest in the Goods will immediately cease;
  - 5.3.3 The Seller will have the right of stopping the Goods in transit whether or not delivery has been made;
  - 5.3.4 If the Customer fails to return the Goods to The Seller as may be required by The Seller pursuant to these Terms & Conditions then The Seller or The Seller's agent may (as the invitee of the Customer) enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Goods are situated and take possession of the Goods;
  - 5.3.5 The Customer is only a bailee of the Goods and until such time as The Seller has received payment in full for the Goods then the Customer will hold any proceeds from the sale or disposal of the Goods, up to and including the amount the Customer owes to The Seller for the Goods, on trust for The Seller. The Customer will not deal with the money of The Seller in any way which may be adverse to The Seller;
  - 5.3.6 The Customer will not charge the Goods in any way nor grant nor otherwise give any interest (including any security interest) in the Goods while such Goods remain the property of The Seller;
  - 5.3.7 The Seller may issue proceedings to recover the Price from the Customer, notwithstanding that title to or in the Goods may not have passed to the Customer; and
  - 5.3.8 Until such time as title to or in the Goods passes to the Customer, if the Goods are converted into other products, the parties agree that The Seller will be the owner of any end products comprising the Goods.

## 6. Risk

- 6.1 Notwithstanding clause 5, all risk in the Goods passes to the Customer on delivery of the Goods in accordance with these Terms & Conditions and the Customer must insure the Goods as and from that time.
- 6.2 If any of the Goods are damaged or destroyed following delivery of the Goods but prior to title in the Goods passing to the Customer, The Seller is entitled to receive all insurance proceeds received by the Customer for the Goods.

- 6.3 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.
- 7. CCA**
- 7.1 Subject to The Seller's statutory obligations under the CCA the following provisions apply:
- 7.1.1 The Seller's liability for a breach of a condition or warranty implied by Pt 3-2 Div 1 of the CCA is limited to:
- (i) in the case of goods, anyone (1) or more of the following:
- (A) the replacement of the Goods or the supply of equivalent goods;
- (B) the repair of the Goods;
- (C) the payment of the cost of replacing the Goods or of acquiring equivalent goods;
- (D) the payment of the cost of having the Goods repaired; or
- (ii) in the case of services:
- (A) the supplying of the services again; or
- (B) the payment of the cost of having the services supplied again.
- 7.1.2 Subject to The Seller's statutory obligations under the CCA and except as provided in these Terms & Conditions, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded.
- 7.1.3 The Seller is not liable to the Customer for any physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, layout, assembly, installation or operation of and Good or arising out of our negligence or in any way whatsoever.
- 7.1.4 The Seller's liability under s274 of the CCA is expressly limited to a liability to pay the Customer an amount equal to:
- (i) the cost of replacing the Goods;
- (ii) the cost of obtaining equivalent Goods; or
- (iii) the cost of having the Goods repaired, whichever is the lowest amount.
- 8. PPSA**
- 8.1 In this clause:
- 8.1.1 **financing statement** has the meaning given to it by the PPSA;
- 8.1.2 **financing change statement** has the meaning given to it by the PPSA;
- 8.1.3 **security agreement** means the security agreement under the PPSA created between the Customer and The Seller by the Terms & Conditions; and
- 8.1.4 **security interest** has the meaning given to it by the PPSA.
- 8.2 Upon assenting to these Terms and Conditions in writing the Customer acknowledges and agrees that these Terms and Conditions:
- 8.2.1 constitute a security agreement for the purposes of the PPSA; and
- 8.2.2 create a security interest in:
- 8.2.2.1 all Goods previously supplied by The Seller to the Customer (if any); and
- 8.2.2.2 all Goods that will be supplied in the future by The Seller to the Customer.
- 8.3 The Customer undertakes to:
- 8.3.1 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:
- 8.3.1.1 register a financing statement or financing change statement in relation to a security interest on the PPSR;
- 8.3.1.2 register any other document required to be registered by the PPSA; or
- 8.3.1.3 correct a defect in a statement referred to in clause 8.3.1.1 or clause 8.3.1.2;
- 8.3.2 indemnify, and upon demand reimburse, The Seller for all expenses incurred in registering a financing statement or financing change statement on the PPSR established by the PPSA or releasing any Goods charged thereby;
- 8.3.3 not register a financing change statement in respect of a security interest without the prior written consent of The Seller;
- 8.3.4 not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favor of a third party without the prior written consent of The Seller; and
- 8.3.5 immediately advise The Seller of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 8.4 The Seller and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these Terms & Conditions.
- 8.5 The Customer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 8.6 The Customer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 8.7 Unless otherwise agreed to in writing by The Seller, the Customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- 8.8 The Customer will unconditionally ratify any actions taken by The Seller under clauses 8.3, 8.4 and 8.5.
- 9. Warranties**
- 9.1 To the extent permitted by law, The Seller does not warrant the following:
- 9.1.1 any of the Goods that are not manufactured by The Seller, and in such case the Customer will only have the benefit of the warranty (if any) of the manufacturer of those Goods which forms part of the contract between The Seller and the manufacturer; or
- 9.1.2 defects or deterioration in or of the Goods which, in the opinion of The Seller, have been caused by careless or improper handling, negligence, misuse, non-adherence to operating, cleaning, care or maintenance instructions, alterations or repairs carried out by anyone other than The Seller's authorised representatives, or by fair wear and tear; or
- 9.1.3 the Customer acknowledges and agrees that they have had the opportunity to review the variety of Goods offered by The Seller together with their specifications and quality and that unless specifically stated otherwise, that the Good is fit for use. The Seller will not be liable to the Customer in any way for any costs, damage or loss of any kind whatsoever (including, without limitation, liability for direct, indirect, special or consequential loss or damage) incurred or sustained by you or any third party arising from or in connection with the Goods and any damage caused.
- 9.2 Where Regulation 90 of the Australian Consumer Law applies in respect of any warranty for defects, the Customer can, at its cost, contact The Seller at **PO Box 2698, Wellington Point, QLD 4160 & 07 3821 387** and provide The Seller with details of the Good, a description of the defect, the Customer's details and proof of purchase. The Seller will then process and advise the Customer on its claim in a timely manner. The Seller will make, at its own discretion, an election to either replace or repair the Goods.
- 9.3 The Seller does not have to repair or replace a Good under a warranty of The Seller if the Good has been modified, disassembled, misused, improperly or inappropriately installed, operated or repaired, abused, damaged or not maintained in accordance with the manufacturer's instructions.
- 9.4 Where applicable:  
*The Seller's goods come with guarantees that cannot be excluded under the Australia Consumer Law. You are entitled to a replacement or refund for major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does amount to a major failure. The benefits under the warranty are in addition to other rights you may have at law.*
- 9.5 For the purpose of making any claim under this clause 9, the Customer must:
- 9.5.1 immediately upon becoming aware of circumstances giving rise to a claim, notify The Seller in writing setting out full details of the claim;
- 9.5.2 provide The Seller with proof of purchase of the Goods in relation to which the claim is made; and
- 9.5.3 allow The Seller, its employees and/or agents full and free access to the Goods in relation to which the claim is made and to the place where the Goods are located for the purpose of conducting any inspection and tests that The Seller may in its absolute discretion consider necessary to determine whether the claim is justified or not.
- 9.6 Where a Good or any part of a Good is not manufactured by The Seller, The Seller will use all reasonable endeavors to assign to the Customer the benefit of any warranty in respect of that part of the Good.
- 9.7 Any warranty of The Seller cannot be assigned or transferred to any third party.
- 10. Returns**
- 10.1 Any return of Goods by the Customer will only be accepted by The Seller provided that:
- 10.1.1 the Customer has an approved Credit Limit (account) with The Seller;
- 10.1.2 the Customer has completed and submitted to The Seller a RFC within seven (7) days of receipt of the Goods by the Customer;
- 10.1.3 The Seller has agreed in writing to accept a return of the Goods;
- 10.1.4 The Goods are returned to The Seller by the Customer within twenty-one (21) days of receipt of the Goods by the Customer;
- 10.1.5 the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances;
- 10.1.6 where the Goods are returned within twenty-one (21) days of delivery of the Goods to the Customer, the Customer pay to The Seller a restocking fee equal to twenty percent (20%) of the Price;
- 10.1.7 any clearing fees and freight charges that are incurred in the return of the Goods are payable by the Customer in accordance with these Terms & Conditions.
- 10.2 The Seller will not be liable for Goods which have not been stored or used in a proper manner. Goods which have been retail marked will not be accepted for any credit on return.
- 10.3 Notwithstanding any other clause of these Terms & Conditions, non-stocklist items of The Seller or Goods made to the Customer's specifications are under no circumstances acceptable for credit or return.
- 11. Default**
- 11.1 Interest on overdue invoices will accrue daily from the date when payment becomes due, until the date of payment, at a rate of two point five percent (2.5%) per annum (and at The Seller's sole discretion such interest will compound daily at such a rate) after as well as before any judgment.
- 11.2 In the event that the Customer's payment is dishonored for any reason the Customer will be liable for any dishonor fees incurred by The Seller.
- 11.3 If the Customer defaults in payment of the Price or any invoice when due, the Customer will 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 Customer basis and The Seller's collection agency costs.
- 11.4 Without prejudice to any other rights or remedies The Seller may have against the Customer, if at any time the Customer is in breach of any obligation (including those relating to payment) The Seller may suspend or terminate the supply of Goods to the Customer and any of its other obligations under these Terms & Conditions. The Seller will not be liable to the Customer for any loss or damage the Customer suffers because The Seller has exercised its rights under this clause.
- 11.1 If any account remains overdue after thirty (30) 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.

11.2 Without prejudice to The Seller's other remedies at law The Seller will be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to The Seller will, whether or not due for payment, become immediately payable in the event that:

11.2.1 any money payable to The Seller becomes overdue, or in The Seller's opinion the Customer will be unable to meet its payments as they fall due; or

11.2.2 the Customer 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

11.2.3 a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

## 12. Cancellation

12.1 Notwithstanding any other clause in these Terms & Conditions, The Seller may cancel any supply or delivery of Goods to which these Terms & Conditions apply at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice The Seller will repay to the Customer any sums paid in respect of the Price. The Seller will not be liable for any loss or damage whatsoever arising from such cancellation.

12.2 In the event that the Customer cancels any supply or delivery of Goods the Customer will be liable for any loss incurred by The Seller (including, but not limited to, any loss of profits) up to the time of cancellation.

12.3 Cancellation of orders for Goods made to the Customer's specifications or non-stocklist items will not be accepted, once production has commenced.

## 13. Privacy Act 1988

13.1 The Customer and/or the Guarantors (in this clause referred to as the Customer) agree for The Seller to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by The Seller.

13.2 The Customer agrees that The Seller may exchange information about the Customer with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency for the following purposes:

13.2.1 to assess an application by the Customer; and/or

13.2.2 to notify other credit providers of a default by the Customer; and/or

13.2.3 to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or

13.2.4 to assess the creditworthiness of the Customer.

13.3 The Customer understands and agrees that the information exchanged can include anything about the Customer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the *Privacy Act 1988* (Cth).

13.4 The Customer consents to The Seller being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) *Privacy Act 1988* (Cth)).

13.5 The Customer agrees that personal credit information provided may be used and retained by The Seller for the following purposes (and for other purposes as will be agreed between the Customer and The Seller or required by law from time to time):

13.5.1 the provision of Goods; and/or

13.5.2 the marketing of Goods by The Seller, its agents or Customers; and/or

13.5.3 analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; and/or

13.5.4 processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or

13.5.5 enabling the daily operation of Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Goods.

13.6 The Seller may give information about the Customer to a credit reporting agency for the following purposes:

13.6.1 to obtain a consumer credit report about the Customer;

13.6.2 allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.

13.7 The information given to the credit reporting agency may include:

13.7.1 personal particulars (the Customer's name, sex, address, previous addresses, date of birth, name of employer and driver's license number;

13.7.2 details concerning the Customer's application for credit or commercial credit and the amount requested;

13.7.3 advice that The Seller is a current credit provider to the Customer;

13.7.4 advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;

13.7.5 that the Customer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;

13.7.6 information that, in the opinion of The Seller, the Customer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Customers credit obligations);

13.7.7 advice that cheques drawn by the Customer for one hundred dollars (\$100) or more, have been dishonored more than once;

13.7.8 that credit provided to the Customer by The Seller has been paid or otherwise discharged.

## 14. Security And Charge

14.1 where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer 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 Customer 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.

14.2 should the Seller elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer 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 Customer basis.

14.3 the Customer and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Seller or the Seller's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 14.1.

## 15. Intellectual property

15.1 Nothing in these Terms and Conditions is taken to create any form of assignment to the Customer of any intellectual property.

15.2 The Customer acknowledges that all intellectual property in the Goods, designs, drawings or other documentation provided to the Customer by or on behalf of the Seller is owned by the Seller and shall not be disclosed by the Customer to any third party.

15.3 The Customer:

15.3.1 acknowledges that the Seller is the owner of all of the intellectual property and will not, directly or indirectly:

15.3.1.1 do anything that which might invalidate or put in dispute the Seller's title to the Intellectual property; or

15.3.1.2 without limiting clause 14.3.1.1, oppose any application for registration of any the intellectual property or support any application to limit, remove, cancel or expunge the Intellectual property once registered; and

15.4 The Customer must not, unless otherwise expressly authorised in writing by the Seller reverse engineer or decompile any of the intellectual property of the Seller;

15.4.1 The Customer must not do or permit any other act which infringes the intellectual property of the Seller.

15.5 If the Customer learns of any infringement or threatened infringement of any of the Seller's rights to the intellectual property of the Seller, the Customer must immediately notify the Seller in writing.

## 16. Testing and Inspection

16.1 If the Seller needs to perform any testing or inspection of the Goods as part of the provision of the Services, or is requested to perform testing or inspection of the Goods by the Customer, the Seller shall give the Customer seven (7) working days written notice that the testing or inspection is ready to be carried out.

16.2 Any testing or inspection requested by the Customer that is not included in the Seller's quotation shall be at the Customer expense and will therefore be in addition to the Price.

16.3 If at the appointed testing/inspection time the Customer fails for any reason to be in attendance, the Seller reserves the right to perform the testing/inspection in the absence of the Customer and will provide the Customer with written results of the testing/inspection. The Customer shall still be liable for all costs associated with the testing/inspection

## 17. Free Issue Material

17.1 The Seller shall return to the Customer all material issued free that has not been used in carrying out the required services.

## 18. Unpaid Seller's Rights

18.1 Where the Customer has left any item with the Seller for repair, modification, exchange or for the Seller to perform any other Service in relation to the item and the Seller has not received or been tendered the whole of the Price, or the payment has been dishonored, the Seller shall have:

18.1.1 a lien on the item;

18.1.2 the right to retain the item for the Price while the Seller is in possession of the item;

18.1.3 a right to sell the item.

18.2 The lien of the Seller shall continue despite the commencement of proceedings, or judgment for the Price having been obtained.

## 19. General

19.1 These Terms & Conditions are governed by the laws of the State of Queensland, Australia and the Customer irrevocably submit to the exclusive jurisdiction of the courts of that State.

19.2 If any provision of these Terms & Conditions is deemed to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.

19.3 If any provisions of these Terms & Conditions are inconsistent with the PPSA or CCA, the PPSA or the CCA (as the case may be) will prevail to the extent of that inconsistency.

19.4 The Customer will not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by The Seller nor to withhold payment of any invoice because part of that invoice is in dispute.

19.5 The Seller may license or sub-contract all or any part of its rights and obligations without the Customer's consent.

19.6 Neither party will be liable for any default due 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.

19.7 The failure by The Seller to enforce any provision of these Terms and Conditions will not be treated as a waiver of that provision, nor will it affect The Seller's right to subsequently enforce that provision.