

Disclosure of Key Terms relating to the supply of goods or services to consumers

Section 47A Fair Trading Act 1987 (NSW) (“the Act”)

Pursuant to section 47A of the Act, a Supplier must, before supplying a Consumer with goods or services in NSW, take reasonable steps to ensure the consumer is aware of the substance and effect of any term or condition relating to the supply of the goods or services that may substantially prejudice the interests of the consumer.

The following contains a summary of key terms in these Terms between the Supplier and the Applicant which the Applicant should be made aware of as per the requirements of the Act.

Words not defined in this summary have the same meaning as set out in the Terms:

1) Clause 76 - Exclusion of Warranties

This clause excludes all warranties not set out in the Terms or any other warranty document (to the extent possible) and makes clear that the Supplier is not liable to compensate you for:

- (i) Any increased costs or expenses you may incur;
- (ii) Any loss of profit, revenue, business, contract or anticipated savings;
- (iii) Any loss or expense resulting from a claim by a third party; or
- (iv) Any special, indirect or Consequential Loss or damage of any nature.

2) Clause 75 - 78 – Limitation of Liability

This clause limits the remedies available to the Applicant if the Goods or services provided by the Supplier are faulty, for example the Supplier may replace the Goods or provide a refund at its election.

Clause 12 also seeks to limit the timeframe for any claim by the Applicant relating to Goods that have not been supplied in accordance with these Terms.

3) Clause 50 – Indemnity

This clause requires You to indemnify Us against any loss or damage We may suffer as a result of your breach of our Trading Terms, which means You will pay us any loss or damage We suffer.

4) Clause 79 - 81 - Repair Notice

In the event that the Applicant requires a repair of the Goods, this clause constitute a repair notice as required under the Australian Consumer Law, set out in Schedule 2 to the Competition and Consumer Act 2010 (Cth) (ACL) where the Applicant is a consumer under the ACL. Please see clause 79 -81 for further details.

5) Clause 40 – PPSA Notice

This clause provides that by signing these Terms the Applicant waives any right or entitlement to receive notice of the registration of any security interest(s) created by these Terms on the Personal Property Securities Register.

Terms & Conditions of Supply

These Terms & Conditions (“Terms”) apply (unless otherwise previously agreed in writing) to the supply of goods and services by the Supplier to an Applicant from time to time. Any supply of Goods by the Supplier to the Applicant made after the date of acceptance of these Terms is a supply pursuant to the supply agreement constituted by these Terms and the relevant order accepted by the Supplier (‘Agreement’) and any such supply does not give rise to a new or separate Agreement.

Interpretation

In these Terms unless the contrary appears:

Additional Charges includes all delivery, handling and storage charges, goods and services tax, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the purchase price, payable by the Applicant to the Supplier arising out of the sale of the Goods.

Applicant means the person to or for whom the Goods are to be supplied by the Supplier.

Consequential Loss means increased costs or expenses; loss of revenue; loss of profit or anticipated profit; loss of business; loss of business reputation; loss of opportunities; loss of anticipated savings; loss of goodwill; loss or expense resulting from a claim by a third party; special or indirect loss or damage of any nature whatsoever caused by the Supplier’s failure to complete or delay in completing the order to deliver the Services; and any other loss suffered

by a party as a result of a breach of this Agreement that cannot reasonably be considered to arise directly and naturally from that breach.

Goods means goods sold to the Applicant by the Supplier and includes any services provided by the Supplier to the Applicant.

PPSA means the Personal Property Securities Act 2009 (Cth).

Supplier means Southland Filtration Pty Ltd ACN 114 917 225 and their related bodies corporate as defined in the *Corporations Act 2001* (Cth).

Payment Terms

1. The terms of payment are strictly thirty (30) days from the end of the month of purchase (or such other period as nominated by the supplier herein) from the date of invoice. The Supplier may, at any time, upon the provision of 48 hours' written notice to the Applicant, vary these Terms.
2. If the Applicant does not agree with the variations proposed by the Supplier, they must notify the Supplier in writing within fourteen (14) days from receipt of the written notice that the variations are not agreed to. The Supplier and/or the Applicant will then be at liberty to suspend/withdraw credit facilities if no Agreement can be reached between the parties regarding the proposed variations. Absent notice from the Applicant, the varied Terms may be deemed accepted. Clerical errors (such as spelling mistakes or grammatical errors) may be subject to correction without notification.
3. The Applicant must check all invoices and advise the Supplier of any errors or omissions within seven (7) days of receipt. Failing advice from the Applicant that the invoice contains any errors or omissions, the invoice may be deemed accepted by the Supplier.
4. Should the Applicant not pay for the Goods supplied by the Supplier in accordance with the credit terms as provided herein, or as agreed in writing by the Supplier and Applicant from time to time, after issuing a written demand to the Applicant demanding payment within fourteen (14) days, the Supplier will be entitled to charge an administration fee of 10 per cent of the amount of the invoice payable.

Price Variation

5. The Supplier reserves the right to vary its prices. Should this occur and it is other than for a Consumer Price Index (CPI) increase (for example it relates to currency fluctuations or an increase in the cost of labour or party or the Supplier encounters issues or problems that were not reasonably obvious to the Supplier at the time of

quoting but was discovered on installation), the Supplier must give fourteen (14) days written notice to the Applicant. In the event that the Applicant does not agree to the new prices it shall be entitled to cancel its order within the 14 days' notice period (to the extent no services have been performed) and the new prices shall not apply during the period of that notice. The Applicant agrees that the Supplier is entitled to increase its fees pursuant to an annual CPI increase and such increase does not give rise to a right to the Applicant to terminate these Terms.

6. In the event the Supplier is required to increase the price, the Supplier will provide the Applicant with the details and will not proceed with further works until the Applicant approves the increase in price.

Delivery and Storage

7. The Applicant acknowledges and accepts that any estimated delivery or supply of Goods provided by the Supplier is an estimate only and the Supplier will not be liable for any loss suffered by the Applicant as a result of any delay in the delivery of Goods.
8. If the Applicant refuses to accept delivery of the Goods or if the Goods are undeliverable for any other reason, the Supplier will store such Goods in safe keeping for three months. The cost of such storage will be paid by the Applicant. The Supplier is entitled to retain undelivered Goods until the Applicant has paid the Supplier all storage costs owing.
9. If after the period of storage noted in clause 8, the undelivered Goods are not collected (and regardless of whether such Goods have been paid for and regardless of any notice being provided to the Applicant that the Goods are being held), the Applicant authorises the Supplier to dispose of the undelivered Goods by way of public auction. The Supplier may apply the proceeds firstly in payment of the storage and attempted delivery (if any) fees, secondly against any auction costs and any incidental costs of the Supplier (including the costs of its employees or agents or solicitors in arranging the sale or disposal of the undelivered Goods). The balance will be paid to the Treasury under the applicable legislation of the State where the undelivered Goods are stored.
10. If, in the opinion of the Supplier, the costs associated with the sale will exceed the proceeds to be obtained, the Supplier may dispose of the undelivered Goods by any means after the period of three months, be that by donation to charity or otherwise.
11. Goods are stored at the Applicant's sole risk. The Supplier accepts no responsibility in tort or in contract for the loss of or damage to any Goods howsoever arising. This applies whether or not such loss or damage was occasioned wholly or in part by the negligence or alleged negligence of the Supplier or its servants agents or sub-contractors or any act omission default neglect, breach of duty or breach of contract

- by the Supplier its servants agents or sub-contractors. This exemption extends not only to loss or damage to the Goods themselves, but to any loss consequently arising from such loss or damage. The provisions of this clause apply irrespective of the manner in which, or the time at which, or the reason by which any such loss or damage may occur and despite that such loss or damage may be the fault of the Applicant.
12. The Supplier may store, warehouse and land Goods in any place, store or warehouse whatsoever and every such dealing with the Goods shall be deemed to be within the scope of these conditions.
 13. All charges for storage and other services in relation to Goods will be calculated the Supplier's schedule of charges. All charges for storage accrue from day to day and are payable from time to time on demand. No accounting reconciliation (or like) conducted by the Supplier waives the Supplier's rights to demand payment under this clause.
 14. Charges for storage and other services in relation to Goods do not include insurance which, if required, must be taken out by the Applicant.
 15. The Applicant indemnifies the Supplier against any duties or other moneys which the Supplier is called upon or obliged to pay in respect of Goods to any person or body and howsoever arising. Without in any way limiting the generality of this Indemnity, it is to include liability on the part of the Applicant to indemnify the Supplier in respect of any payment it may be called upon or obliged to pay to the Crown, the Collector of Customs or any other statutory body or authority whether representing the Crown or not, as well as any private body company or person and whether the obligation to pay the said duties or moneys arises by reason of any statute proclamation, declaration, rule, by-law or other legislative or quasi-legislative act or by reason of liability arising in contract in tort or by reason of the existence of any lien charge bill or sale mortgage or other hypothecation of the Goods or under any hire purchase agreement or by reason of the law relating to companies, bankruptcy, insolvency or execution or otherwise. The indemnity conferred upon the Supplier shall not be affected in any way if such pillaging, stealing, loss, damage or destruction has occurred or been brought about wholly or in part by the negligence or the alleged negligence or any default omission, neglect or default of any such breach of duty or obligation of the Supplier, its servants or agents
 16. The Supplier may at any time and in its absolute discretion give 28 days' notice to the Applicant to remove stored Goods from the Supplier's warehouse within such further time as is specified in the notice. If the Applicant does not remove such Goods, the Supplier may sell the Goods according to the provisions of the relevant state legislation and the regulations relating to warehousemen's liens
 17. The Supplier may without notice and at the Applicant's expense remove and if thought fit dispose of or destroy any stored Goods which in the opinion of the Supplier shall be or become deteriorated objectionable or unwholesome, a source of danger or contamination or hazardous, as defined from time to time by the Insurance Council of Australia of the state or territory in which this contract is made.
 18. In the sale of any Goods under these Terms, the Supplier must comply with the provisions of any legislation or regulations relating to warehousemen's liens, as regulate the sale of Goods by a warehouseman.
 19. The Supplier is entitled to subcontract any part of the warehousing in its absolute discretion and is entitled to move Goods between warehouses under its control from time to time. Any requests by the Applicant for Goods to be transported or moved shall, if accepted by the Supplier, be transported on the Supplier's standard terms and conditions prevailing at the time of the request.
 20. The Applicant accepts that the Supplier may deliver Goods by instalments and require payment for each separate instalment in accordance with these Terms.
 21. If the Applicant requests that Goods are delivered either to an unattended location, left outside, or are left outside the Supplier's premises for collection, the Applicant acknowledges that the Supplier will deliver the Goods as requested at the Applicant's risk.
 22. The Applicant acknowledges and accepts that it is not relieved from any obligation arising under these Terms by reason of any delay in delivery.
 23. The Applicant must inspect the Goods immediately upon delivery and must within seven days after the date of inspection give written notice to the Supplier with particulars, of any claim that the Goods are not in accordance with this Agreement. If the Applicant fails to give notice, then to the extent permitted by law, the Goods must be treated as having been accepted by the Applicant and the Applicant must pay for the Goods in accordance with these Terms.
 24. The Applicant cannot return Goods to the Supplier without the written agreement of the Supplier. The Applicant acknowledges and agrees that any return will incur a handling and administration charge of 15 per cent of the purchase price of the returned Goods.
 25. All risk in the Goods passes to the Applicant upon delivery.
- ### Subcontract
26. In the performance of its obligations hereunder, the Supplier shall have the right, in its sole discretion, to subcontract its rights and responsibilities to any third party, and the Supplier shall remain responsible for the performance of any such third party.

Jurisdiction

- 27. The Applicant acknowledges and agrees that this Agreement will be governed by the laws of New South Wales, and the laws of the Commonwealth of Australia which are in force in New South Wales.
- 28. The Applicant acknowledges and agrees that any contract for the supply of Goods between the Supplier and the Applicant is formed at the address of the Supplier.
- 29. The parties to this Agreement submit to the non-exclusive jurisdiction of the courts of New South Wales and the relevant federal courts and courts competent to hear appeals from those courts.

Security/charges

- 30. The Applicant charges in favour of the Supplier all of its estate and interest in any real property, whether held in its own right or as capacity as trustee, the Applicant owns at present and in the future with the amount of its indebtedness hereunder until discharged.
- 31. The Applicant charges in favour of the Supplier all of its estate and interest in any personal property, whether held in its own right or as capacity as trustee, the Applicant owns at present and in the future with the amount of its indebtedness hereunder until discharged.
- 32. The Applicant appoints as its duly constituted attorney the Supplier's company secretary from time to time to execute in the Applicant's name and as the Applicant's act and deed any real property mortgage, bill of sale or consent to any caveat the Supplier may choose to lodge against real property that the Applicant may own in any Land Titles Office in any state or territory of Australia, even though the Applicant may not have defaulted in carrying out its obligations hereunder upon written notice and demand to the Applicant (in the event that there is no default by the Applicant in carrying out its obligations hereunder).
- 33. Where the Applicant has previously entered into an Agreement with the Supplier by which the Applicant has granted a charge, mortgage or other security interest (including a security interest as defined in the PPSA) over or in respect of real or personal property, those charges, mortgages or other security interests and the terms which directly or indirectly create rights, powers or obligations in respect thereto will continue and co-exist with the obligations and security interests created in this Agreement and will secure all indebtedness and obligations of the Applicant under this Agreement. The Supplier may, at its election and upon the provision of written notice to the Applicant, vary the terms of such previous charges, mortgages or other securities to reflect the terms herein.

Purpose of credit

- 34. The Applicant acknowledges and agrees that the credit to be provided to the Applicant by the Supplier is to be applied wholly or predominantly for commercial purposes.

Formation of contract

- 35. Quotations made by the Supplier will not be construed as an offer or obligation to supply in accordance with the quotation. The Supplier reserves the right to accept or reject, at its discretion, any offer to purchase received by it upon provision of written reasons to the Applicant. Only written acceptance by the Supplier of the Applicant's offer will complete a contract.
- 36. Placement of an order, either verbally or in writing, will imply acceptance of the Supplier's offer and of these Terms and will override any conditions contained in the purchase order.

Retention of title

- 37. Title in the Goods does not pass to the Applicant until the Applicant has made payment in full for the Goods and, further, until the Applicant has made payment in full of all the other money owing by the Applicant to the Supplier (whether in respect of money payable under a specific contract or on any other account whatsoever) including the Additional Charges.
- 38. Whilst the Applicant has not paid for the Goods supplied in full at any time, the Applicant agrees that property and title in the Goods will not pass to the Applicant and the Supplier retains the legal and equitable title in those Goods supplied and not yet sold.
- 39. Until payment in full has been made to the Supplier, the Applicant will hold the Goods in a fiduciary capacity for the Supplier and agrees to store the Goods in such a manner that they can be identified as the property of the Supplier, and will not mix the Goods with other similar goods.
- 40. The Applicant will be entitled to sell the Goods in the ordinary course of its business, but until full payment for the Goods has been made to the Supplier, the Applicant will sell as agent and bailee for the Supplier and the proceeds of sale of the Goods will be held by the Applicant on trust for the Supplier absolutely.

41. The Applicant's indebtedness to the Supplier, whether in full or in part, will not be discharged by the operation of clause 27 hereof unless and until the funds held on trust are remitted to the Supplier.
42. The Applicant agrees that whilst property and title in the Goods remains with the Supplier, the Supplier has the right, with prior notice to the Applicant, to enter upon any premises occupied by the Applicant (or any receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy of the Applicant) to inspect the Goods of the Supplier and to repossess the Goods which may be in the Applicant's possession, custody or control when payment is overdue.
43. The Applicant will be responsible for the Supplier's reasonable costs and expenses in exercising its rights under clause 29. Where the Supplier exercises any power to enter the premises, that entry will not give rise to any action of trespass or similar action on the part of the Applicant against the Supplier, its employees, servants or agents.
44. The Applicant agrees that where the Goods have been retaken into the possession of the Supplier, the Supplier has the absolute right to sell or deal with the Goods, and if necessary, sell the Goods with the trademark or name of the Applicant on those Goods, and the Applicant hereby grants an irrevocable licence to the Supplier to do all things necessary to sell the Goods bearing the name or trademark of the Applicant.
45. For the avoidance of doubt, the Supplier's interest constitutes a 'purchase money security interest' pursuant to the PPSA.

PPSA

46. Defined terms in this clause have the same meaning as given to them in the PPSA.
47. Supplier and the Applicant acknowledge that these Terms constitute a Security Agreement and entitle the Supplier to claim:
- (a) a Purchase Money Security Interest ("PMSI") in favour of Supplier over the Collateral supplied or to be supplied to the Applicant as Grantor pursuant to these Terms; and
 - (b) a security interest over the proceeds of sale of the Collateral referred to in (a) as original collateral.
48. The Goods supplied or to be supplied under these Terms fall within the PPSA classification of "Other Goods" acquired by the Applicant pursuant to these Terms.
49. The Proceeds of sale of the Collateral referred to in clause 36 (a) falls within the PPSA classification of "Account".

50. Supplier and the Applicant acknowledge that Supplier, as Secured Party, is entitled to register its Security Interest in the Collateral supplied or to be supplied to Applicant pursuant to these Terms and in the relevant Proceeds.
51. To the extent permissible at law, the Applicant:
- (c) waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Applicant to Supplier.
 - (d) agrees to indemnify Supplier on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the;
 - i) registration or amendment or discharge of any Financing Statement registered by or on behalf of Supplier; and
 - ii) enforcement or attempted enforcement of any Security Interest granted to Supplier by the Applicant;
 - (e) agrees that nothing in sections 130 and 143 of the PPSA will apply to these Terms or the Security under these Terms;
 - (f) agrees to waive its right to do any of the following under the PPSA:
 - i) receive notice of removal of an Accession under section 95;
 - ii) receive notice of an intention to seize Collateral under section 123;
 - iii) object to the purchase of the Collateral by the Secured Party under section 129;
 - iv) receive notice of disposal of Collateral under section 130;
 - v) receive a Statement of Account if there is no disposal under section 132(4);
 - vi) receive a Statement of Account under section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.
 - vii) receive notice of retention of Collateral under section 135;
 - viii) redeem the Collateral under section 142; and
 - ix) reinstate the Security Agreement under section 143.
52. All payments received from the Applicant must be applied in accordance with section 14(6)(c) of the PPSA.

- 53. The Applicant will, at the request of the Supplier, execute documents and do such further acts as may be required for the Supplier to register the security interest granted by the Applicant under the PPSA.
- 54. The Applicant agrees to accept service of any document required to be served, including any notice under this agreement or the PPSA or any originating process, by prepaid post at any address nominated in this application or any other address later notified to the Supplier by the Applicant or the Applicant's authorised representative.
- 55. The Applicant further agrees that where the Supplier has rights in addition to those under part 4 of the PPSA, those rights will continue to apply.
- 56. The Applicant irrevocably grants to the Supplier the right to enter upon the Applicant's property or premises, with notice, and without being in any way liable to the Applicant or to any third party, if the Supplier has cause to exercise any of their rights under sections 123 and/or 128 of the PPSA, and the Applicant shall reasonably indemnify the Supplier from any claims made by any third party as a result of such exercise.

Cancellation of terms of credit

- 57. The Supplier reserves the right to withdraw credit at any time upon provision of 48 hours' written notice.
- 58. Upon cancellation with notice, all liabilities incurred by the Applicant become due and payable to the Supplier within seven (7) days.

Warranty

- 59. Where the Supplier is required to install the Goods the Client warrants that the structure of the premises or equipment in or upon which these Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and the Supplier shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto.

Access

- 60. The Applicant shall ensure that the Supplier has clear and free access to the work site at all times to enable it to deliver the Goods (including the performance of any services). The Supplier shall not be liable for any loss or damage to the site unless due to the negligence of the Company.

Indemnity

- 61. To the full extent permitted by law, Applicant will indemnify Supplier and keep Supplier indemnified from and against any liability and any loss or damage the Supplier may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these terms by Applicant or its representatives. This indemnity includes any legal fees and expenses the Supplier incurs in order to enforce its rights, on an indemnity basis.

Provision of further information

- 62. The Applicant undertakes to comply with any reasonable written requests by the Supplier to provide further information for the purpose of assessing the Applicant's creditworthiness, including an updated credit application.
- 63. If the Applicant is a corporation (with the exception of a public listed company), it must advise the Supplier of any alteration to its corporate structure (for example, by changing directors, shareholders, or its constitution). In the case of a change of directors or shareholders the Supplier may ask for new guarantors to sign a guarantee and indemnity.

Corporations

- 64. If the Applicant is a corporation, the Applicant warrants that all of its directors have signed this Agreement and that all of its directors may be required to enter into a guarantee and indemnity with the Supplier in relation to the Applicant's obligations to the Supplier.

Trustee capacity

- 65. If the Applicant is the trustee of a trust (whether disclosed to the Supplier or not), the Applicant warrants to the Supplier that:
 - (a) the Applicant enters into this Agreement in both its capacity as trustee and in its personal capacity;
 - (b) the Applicant has the right to be reasonably indemnified out of trust assets;

- (c) the Applicant has the power under the trust deed to sign this Agreement; and
 - (d) the Applicant will not retire as trustee of the trust or appoint any new or additional trustee without advising the Supplier.
66. The Applicant must give the Supplier a copy of the trust deed upon request.

Partnership

67. If the Applicant enters into this Agreement as partners, the Applicant warrants that all of the partners have signed this Agreement and that all of the partners may be required to enter into a guarantee and indemnity with the Supplier in relation to the Applicant's obligations to the Supplier.
68. If the Applicant is a partnership, it must not alter its partnership (for example, adding or removing partners or altering its partnership agreement) without advising the Supplier. In the case of a change of partners, the Supplier may ask for new guarantors to sign a guarantee and indemnity.

Insolvency

69. If the Applicant becomes insolvent, the Applicant remains liable under this Agreement for payment of all liabilities incurred hereunder. The Applicant remains liable under this Agreement even if the Supplier receives a dividend or payment as a result of the Applicant being insolvent.

Waiver

70. A waiver of any provision or breach of this Agreement by the Supplier must be made by an authorised officer of the Supplier in writing. A waiver of any provision or breach of this Agreement by the Applicant must be made by the Applicant's authorised officer in writing.

Costs

71. The Applicant must pay for its own legal, accounting and business costs and all costs incurred by the Supplier relating to any default by the Applicant under this Agreement. The Applicant must also pay for all stamp duty and other taxes payable on this Agreement (if any).

72. The Applicant will pay the Supplier's costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against the Applicant, including collection costs, debt recovery fees and legal costs on an indemnity basis.
73. Subject to clauses 61 and 63, payments by, or on behalf of, the Applicant will be applied by the Supplier as follows.
- (a) Firstly, in payment of any and all collection costs and legal costs in accordance with clauses 32 and 61.
 - (b) Secondly, in payment of any interest incurred in accordance with clause 68.
 - (c) Thirdly, in payment of the outstanding invoice(s).
74. In circumstances where the Supplier seeks to enforce a purchase money security interest under the PPSA over collateral or proceeds (these terms being consistent with the terms defined in the PPSA), payments received from the Applicant will be allocated in a manner at the Suppliers absolute and unfettered discretion, so as to attribute, to the greatest extent possible, the unpaid balance of the debt to the purchase money obligation in respect of the collateral and/or proceeds over which the Supplier seeks to enforce its purchase money security interest.
75. To the extent that payments have been allocated to invoices by the Supplier in its business records, the Supplier may, at its sole and unfettered discretion, allocate and/or retrospectively reallocate payments in any manner whatsoever at the Supplier's absolute discretion, including in a manner inconsistent with clause 62 herein.
76. Payments allocated (and/or reallocated) under clause 62 and/or 63 will be treated as though they were allocated (and/or reallocated) in the manner determined by the Supplier on the date of receipt of payment.

Taxes and duty

77. The Applicant must pay GST on any taxable supply made by the Supplier to the Applicant under this Agreement. The payment of GST is in addition to any other consideration payable by the Applicant for a taxable supply.
78. If as a result of:
- (a) any legislation becoming applicable to the subject matter of this Agreement; or
 - (b) any changes in legislation or its interpretation by a court of competent jurisdiction or by any authority charged with its administration;
- the Supplier becomes liable to pay any tax, duty, excise or levy in respect of the amounts received from the Applicant, then the Applicant must pay the Supplier these additional amounts on 48 hours' written demand.

Interest rates

79. The interest rate on any outstanding debts is a fixed rate of 18 per cent per annum compounding daily from the date of default.

Set-off

80. All payments required to be made by the Applicant under this Agreement will be made free of any set-off, or counterclaim and without deduction or withholding, unless agreed to otherwise by the Supplier and the Applicant in writing.
81. Any amount due to the Supplier from time to time may be deducted from any monies which may be or may become payable to the Applicant by the Supplier.

Force Majeure

82. The Supplier will have no liability to the Applicant in relation to any loss, damage or expense caused by the Supplier's failure to complete an order or delivery or contract as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lock-out, war, pandemic, epidemic, acts of terrorism, or the inability of the Supplier's suppliers to supply necessary materials or any other matter beyond the Supplier's control ('Force Majeure Event').
83. The Supplier will be entitled to suspend the performance of an obligation under the Agreement if its ability to perform that obligations is impeded by a Force Majeure Event to the extent that and for so long as the Force Majeure Event is adversely affecting its ability to perform that obligation.
84. If a Force Majeure Event causes the Supplier to suspend its performance of substantially all of its obligations under the Agreement for a continuous period of 3 months, either party may terminate the Agreement by giving 30 days written notice.
85. A Force Majeure Event will in no way affect the Applicant's obligations to pay the Supplier amounts owing under this Agreement.

Limitation of Liability

86. The Supplier's liability is limited to, to the extent permissible by law and at Supplier's option;

- (a) in relation to the Goods;
- (b) the replacement of the products or the supply of equivalent products
- (c) the repair of the products
- (d) the payment of the cost of replacing the products or of acquiring equivalent products; or
- (e) The payment of the cost of having the products repaired (f)

Where the Goods are services:

- (g) the supply of service again; or
 - (h) the payment of the cost of having the services supplied again.
87. To the extent permitted at law, all other warranties whether implied or otherwise, not set out in these Terms are excluded and Supplier is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate Applicant for:
- (a) any increased costs or expenses;
 - (b) any loss of profit, revenue, business, contracts or anticipated savings;
 - (c) any loss or expense resulting from a claim by a third party; or
 - (d) any special, indirect or Consequential loss or damage of any nature whatsoever caused by Supplier's failure to complete or delay in completing the order to deliver the Goods.
88. The Applicant acknowledges and agrees that in entering into this Agreement it has not relied in anyway on the Supplier's representations and that it has satisfied itself as to the suitability of the Goods for the Applicant's purposes.
89. The Supplier is not liable for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, loss of a right or any other indirect loss suffered by the Applicant as a result of the Goods supplied under this Agreement.

Repair Notice

90. Where Goods are repaired by the Supplier in accordance with these Terms, the Applicant acknowledges and agrees:
- (a) that the repair of the Goods may result in the loss of any user-generated data and it will ensure that it has made a copy of any data saved on the Goods;

- (b) Goods presented for repair may be replaced by refurbished goods of the same type rather than being repaired. Refurbished parts may be used to repair the Goods.

91. This clause constitutes a repair notice under the Australian Consumer Law, set out in Schedule 2 to the Competition and Consumer Act 2010 (Cth) (ACL) where the client is a consumer under the ACL.
92. The Supplier does not have to repair or replace any Goods if the Goods has been interfered with, modified, disassembled, misused, improperly or inappropriately used, damaged or not maintained in accordance with the manufacturer's and/or the Supplier's instructions.

General

93. Nothing in this Agreement shall be read or applied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any Goods pursuant to this Agreement of all or any of the provisions the *Competition and Consumer Act 2010* (Cth) and its schedule 2, the Australian Consumer Law (as amended from time to time) or any relevant State or Federal Legislation which by law cannot be excluded, restricted or modified.

Severance

94. If any provision of this Agreement is not enforceable in accordance with its terms, other provisions which are self-sustaining are, and continue to be, enforceable in accordance with their terms.
95. If any part of this Agreement is invalid or unenforceable, that part is deleted and the remainder of the Agreement remains effective.

Variation

96. The Applicant agrees that these Terms may be varied, added to, or amended by an authorised officer of the Supplier at any time by written notice to the Applicant. The Applicant will be provided with fourteen (14) days to accept the variation/s, failing which the variations may be deemed accepted by the Supplier.
97. Any proposed variation to these Terms by the Applicant must be requested in writing. The Supplier may refuse any such request without providing reasons either orally or in writing.
98. Variations requested by the Applicant will only be binding upon the Supplier if they are accepted in writing.

Consent to register

99. The Applicant hereby consents to the Supplier recording the details of this Agreement on the Personal Property Securities Register and agrees to do all things necessary and reasonably required by the Supplier to effect such registration.

Entire Agreement

100. This Agreement constitutes the entire Agreement between the parties relating in any way to its subject matter, unless agreed to otherwise by the Supplier and the Applicant in writing. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of this Agreement are merged in this Agreement and are of no further effect. No oral explanation or information provided by a party to another affects the meaning or interpretation of this Agreement or constitutes any collateral Agreement, warranty or understanding.
101. Notwithstanding the preceding paragraph, in circumstances where there is a preexisting written credit Agreement (Original Agreement) between the Applicant and the Supplier, these terms and this Agreement will constitute a variation of the Original Agreement whereby the terms of the Original Agreement are deleted and replaced with the terms herein, unless the terms of the Original Agreement are otherwise expressly or implicitly preserved by the terms herein in which case they will co-exist with the terms herein, and, to the extent of any inconsistency, these terms will prevail.

Privacy Act

102. The Applicant agrees to the terms of the Privacy Statement pursuant to the Privacy Act 1988 (as amended by the Privacy Amendment (Enhancing Privacy Protection) Act 2012 contained.



Privacy Statement

1. This privacy statement encompasses consents, notifications and disclosures under or in relation to the Privacy Act 1988 (as amended by the Privacy Amendment (Enhancing Privacy Protection) Act 2012) (Act).
2. The terms of this statement operate concurrently with any pre-existing privacy statement, authorisation or notification, whether contained in our credit application, Terms or otherwise, save to the extent of any inconsistency in which case the terms of this privacy statement shall prevail.
3. For the purpose of this statement, the terms “Personal Information”, “sensitive information”, “credit eligibility information”, “credit information”, “commercial credit purpose”, “credit guarantee purpose”, “consumer credit purpose”, “credit reporting body”, “credit provider”, “credit reporting information”, “credit reporting code” carry the same meaning as under the Act and the term “Information” means Personal Information, sensitive information, credit eligibility information, credit reporting information and credit information, both severally and collectively.
4. The Supplier may collect Personal Information about the Applicant and/or Guarantor(s) for the Supplier’s primary purposes which include the assessment of a credit application, reviewing existing credit terms, assessing credit worthiness, collecting overdue payments, assessing credit guarantees (current and prospective), internal management purposes, marketing, sales and business development purposes and direct marketing.
5. The Applicant and/or Guarantor(s) consent to the Supplier collecting, using and disclosing Personal Information (including sensitive information) for both their primary purposes specified herein and purposes other than the primary purposes, including the purpose of direct marketing.
6. The Supplier may collect, and may already have collected, Information from the Applicant and/or Guarantor(s), other credit providers, credit reporting bodies and other third parties for the purposes of its functions and activities including, but not limited to, credit, sales, marketing and administration. If the Information was not collected by the Supplier, it may restrict or impede upon the Supplier trading with, extending credit to, continuing to extend credit to or extending further credit to the Applicant and/or Guarantor(s) or their related bodies corporate.
7. The Applicant and/or Guarantor(s) consent to the Supplier obtaining and making disclosure of Information about the Applicant and/or Guarantor(s) from and to a credit reporting body and/or another credit provider for a commercial credit related purpose and/or a credit guarantee purpose and/or a consumer credit purpose and/or

another related purpose. The Supplier notifies the Applicant and/or Guarantor(s) that it may use and/or disclose credit eligibility information under section 21G of the Act.

8. The Supplier may provide Personal Information about the Applicant and/or Guarantor(s) to any or all of the credit reporting bodies nominated below. The Supplier intends to disclose default information to any or all of the credit reporting bodies listed below. The Applicant and/or Guarantor(s) consent to such disclosure.

The Supplier’s credit reporting policy contains a statement of notifiable matters in accordance with s21C of the Act and items 4.1 and 4.2 of the Credit Reporting Code in respect of disclosure to credit reporting bodies including what the information may be used for, what the Supplier may disclose and the Applicant’s and/or Guarantor(s)’ right to request limitations to the use of their information.

Credit reporting body	Address	Telephone
Veda Advantage	Level 15, 100 Arthur Street, NORTH SYDNEY NSW 2060	1300 921 621
Creditor Watch	Level 13, 109 Pitt Street, SYDNEY NSW 2000	1300 501 312
NCI	Level 2, 165 Grenfell St, ADELAIDE SA 5000	1800 882 820
Dun & Bradstreet	Level 2, 143 Coronation Drive, MILTON QLD 4064	07 3360 0600
Experian	Level 6, 549 St Kilda Road, MELBOURNE VIC 3004	03 699 0100

9. A full copy of the Supplier’s privacy policy and credit reporting policy can be obtained from the Supplier’s website (details above) or by making a request in writing directed to the Supplier’s privacy officer. The Supplier’s privacy policy and credit reporting policy contain information about how to access and seek correction of Information, or how to complain about a breach of the Act, APP, code(s) and how the Supplier will deal with any such complaint.
10. The Applicant and/or Guarantor(s) will be deemed to have acknowledged and accepted the terms of this privacy statement by either signing and returning this statement, failing to provide written notification to the Supplier within 14 days of

receipt of this statement that its terms are not accepted, continuing to trade with the Supplier after receipt of this Statement or, if the Applicant and/or Guarantor(s) are directors or guarantors of a customer, by not taking steps to prevent the customer from continuing to trade with the Supplier after receipt of this statement.