Customer Acknowledgment

You acknowledge that the Goods and Services you will acquire from the Supplier will be obtained for either the purpose of re-supply (in an altered form or condition or to be incorporated into other goods) or for the purpose of using them up or transforming them in trade or commerce in the course of a process of production or manufacture or in the course of repairing or treating other goods or fixtures on land.

1. DEFINITIONS

1.1 **Agreement** means the contract between the Supplier and the Customer governing the supply of Goods, including:

(a) The credit application completed by the Customer, including a copy of these Terms;

(b) The agreement to be bound by these Terms made during the Supplier's online application process;

(c) a contract between the Supplier and the Customer formed under clause 5,

whichever is applicable.

1.2 **Associated Entity** has the meaning given to that term in the Corporations Act 2001 (Cth).

1.3 **Bins** means waste receptacles the Supplier provides to the Customer for use during the term of the Agreement.

1.4 **Charges** means the fees and charges payable in connection with the Goods/Services supplied by us, including the price of any Goods, service fees, Bin rental fees, fees set out on the 'Additional Charges' section of our website and any other agreed fees and charges, as adjusted in accordance with clause 6 of these Terms.

1.5 **Claim** means any judgment, claim, demand, action, suit or proceeding for damages, debt, restitution, equitable compensation, account, injunctive relief, specific performance or any other remedy, whether by original claim, cross claim or otherwise whether arising at common law, in equity, under statute or otherwise wherever arising, whether known or unknown at the time of this Agreement, whether presently in contemplation of the parties or not.

1.6 **Consequential Loss** means:

(a) loss or damage, whether direct or indirect, in the nature of loss of profits, loss of revenue, loss of production, loss of anticipated savings or business or loss of opportunity; and

(b) any form of consequential, special, indirect, punitive or exemplary loss or damages,

whether or not a party was advised of the possibility of such loss or damage.

1.7 **Customer** means the person specified in an application for commercial credit, or if there is no application, a person who makes (or proposes to make) an order for the supply of Goods or Services from the Supplier.

1.8 **Customer Email Address** means any of the following: (a) an email address provided by the Customer at the time of completing the Supplier's credit application; (b) an email address used by the Customer to order Goods from the Supplier; (c) any other email address used by the Customer, to correspond with the Supplier in the 12 months prior to the sending of the relevant notice.

1.9 **Director** means where the Customer is a corporation, all directors of that corporation and where the Customer is a trust that has a corporate trustee all directors of the trustee.

1.10 **Goods** means products supplied by the Supplier to the Customer and as the context requires, includes Bins.

1.11 **Knowledge** includes actual knowledge, constructive knowledge and imputed knowledge.

1.12 **Loss** means, in relation to any person, any damage, loss, cost, expense or liability incurred by the person or arising from any Claim made against the person, however arising and whether present or future, fixed or ascertained, actual or contingent.

1.13 **New Supplier Group Entity** means an entity that, after these Terms are entered into by the Supplier and Customer becomes a Related Body Corporate, successor, or assignee of ReDirect Recycling Pty Ltd ABN 75 635 826 256, Porta Products Pty Ltd ABN 31 003 246 357, Bettergrow Pty Ltd ABN 71 062 888 117 and Direct Pallets Pty Ltd ABN 14 639 634 629.

1.14 **Non-Accepted Waste** means material that is combustible, corrosive, contaminated, toxic, reactive, radioactive, volatile, highly flammable or explosive, including but not limited to fuels, oils, oily water, asbestos, PCBC, heavy metals, biosolids, manures, grease trap waste, plastics, metal, glass, septic / sewage, obvious rubbish and any other waste not approved by the Supplier for disposal in the Bins OR acceptance at the Supplier's premises (as the context requires).

1.15 **Related Body Corporate** has the meaning given to that term in the Corporations Act 2001 (Cth) and for the purposes of these Terms, includes any body corporate that is an Associated Entity or Related Entity of the first mentioned body.

1.16 **Related Entity** has the meaning given to that term in the Corporations Act 2001 (Cth).

1.17 **Services** means all services supplied by the Supplier to the Customer and includes any advice or recommendations.

1.18 **Supplier** means the company within the Supplier Group that has supplied or supplies Goods and/or Services to the Customer.

1.19 **Supplier Group** means ReDirect Recycling Pty Ltd ABN 75 635 826 256, Porta Products Pty Ltd ABN 31 003 246 357, Bettergrow Pty Ltd ABN 71 062 888 117 and

Direct Pallets Pty Ltd ABN 14 639 634 629 their successors, Related Bodies Corporate or, assigns.

1.20 **Supplier's Policies and Procedures** means the policies and procedures brought to the Customer's attention either: (i) by notice in writing; or (ii) as part of the customer sign-up process.

1.21 **Quotation** means a written quotation setting out the price of the supply of Goods and/or Services, addressed to the Customer and provided to the Customer by the Supplier.

1.22 **Terms** means the terms and conditions set out in this document.

1.23 **Waste** means waste types (excluding Non-Accepted Waste) which the Customer requires the Supplier to collect or accept and which the Supplier approves for disposal in the Bins or acceptance at the Supplier's premises.

2. INTERPRETATION

2.1 The headings used in these Terms do not form part of these Terms and are for convenience only.

2.2 Words importing the singular include the plural and vice versa, words importing a gender include other genders and references to a person is to be construed as references to an individual, firm, body corporate, association (whether incorporated or not), government and governmental, semi-governmental and local authority or agency.

2.3 The words "includes" or "including" are not to be construed as terms of limitation.

2.4 A reference to statute, statutory instrument or any provision thereof is to be construed as a reference to that statute, statutory instrument or such provision thereof as it may be amended or re-enacted from time to time.

3. WASTE AND BINS

3.1 The Supplier will only collect the Waste.

3.2 The Customer represents and warrants to the Supplier that it has made reasonable enquiries about the contents of the waste and, to the best of its Knowledge, the waste received from the Customer by the Supplier (whether by disposal at the Supplier's premises or placement in the Bins) will be free of Non-Accepted Waste.

3.3 If the Waste to be collected in Bins has been contaminated with Non-Accepted Waste or Non-Accepted Waste has been otherwise placed in the Bins, the Supplier may, at its discretion:

(a) not collect the Non-Accepted Waste or any Bin which contains Non-Accepted Waste and ask the Customer to remove the Non-Accepted Waste from the Bins or the Customer's premises; or

(b) collect the Non-Accepted Waste, in which case the Customer will meet all Loss and Consequential Loss suffered by the Supplier in addition to the additional fees for the transport and/or disposal of the Non-Accepted Waste.

3.4 Subject to this Agreement, all Waste becomes the Supplier's property once the Waste has been collected or accepted by the Supplier, however title and risk in any Non-Accepted Waste remains with the Customer until it is deposited to a waste facility that is legally authorised to accept such Non-Accepted Waste.

3.5 The Customer will store all Waste securely and evenly spread the Waste inside the Bins and the Customer will not overfill the Bins or place Waste beside or on top of the Bin(s).

3.6 If the Customer needs Non-Accepted Waste collected, the Customer must contact the Supplier to request a special collection. The Supplier may decline to do so in its absolute discretion.

3.7 The Customer will comply with all of the Supplier's Policies and Procedures. The Supplier will provide the Customer with notice of any updates to the policies and procedures referenced in this clause.

4. GENERAL

4.1 These Terms constitute a legally binding agreement between the Customer and the Supplier governing the supply of the Goods and/or Services and replace any previous agreements, terms and conditions of sale, negotiation, or communication in relation to the supply of Goods and/or Services and prevail over any terms and conditions of the Customer's order inconsistent with these Terms.

4.2 Should a Related Entity of a Customer order Goods and/or Services, or otherwise transact with the Supplier ('**Customer Related Entity**'), until the time the Customer Related Entity has signed a form of these Terms, the Customer agrees that:

(a) For the purposes of this clause, the Customer Related Entity will be treated as being bound by these Terms; and

(b) The Customer will be jointly and severally liable to the Supplier for the Customer Related Entity's obligations, whether under the deemed contract at clause 4.2(a) or otherwise.

However, this clause 4.2(a) will only apply to the extent that the Customer had Knowledge that the Customer Related Entity was transacting or intended to transact with the Supplier.

4.3 Without limitation, the Customer will be taken to have accepted these Terms from the earlier of the time when:

(a) the Customer, as part of the account set-up process, acknowledges that it agrees to these Terms;

(b) the Customer signs an application for commercial credit containing a copy of these Terms;

(c) an order from the Customer is received by the Supplier for the supply of Goods and/or Services; or

(d) the Customer accepts Goods and/or Services supplied by the Supplier.

4.4 The Supplier may vary these Terms for future purchases of Goods and/or Services by notice in writing to the Customer. The Customer agrees that the purchase of any Goods and/or Services after the date of a notice of variation will be deemed to be an acceptance of such varied Terms.

4.5 Following acceptance of these Terms by the Customer the Terms can only be varied in accordance with these Terms and shall prevail to the extent of any inconsistency with any other document or agreement between the Supplier and the Customer.

4.6 The Customer will notify the Supplier of any material change in the structure or nature of the Customer's business as soon as practicable following that change.

4.7 The Supplier's agents or representatives are not authorised to enter into any agreement on behalf of the Supplier, or vary these Terms on behalf of the Supplier, and the Supplier, to the extent permitted by law, shall not be liable for any agreement or varied Terms made by the Supplier's agents or representatives.

4.8 In the event that the whole or any part or parts of any provisions in these Terms should be held to be illegal, invalid, void or unenforceable in whole or in part such provision or part thereof shall to that extent be read down to the minimum necessary to achieve its validity or intent, if applicable, or else severed from these Terms but the validity and enforceability of the remainder of these Terms shall not be affected.

4.9 The Supplier reserves the right to sub-contract the manufacture and/or supply of the Goods and/or Services or any part thereof to a third party.

5. GOODS AND/OR SERVICES

5.1 The Goods and/or Services are as described on the invoices, Quotation or order confirmation provided by the Supplier to the Customer.

5.2 We will supply Goods and/or perform the Services in consideration for payment of the Charges.

6. PRICING AND ORDERS

6.1 A Quotation by the Supplier is an indicative price only and shall not constitute an offer to sell Goods and/or Services to the Customer. Unless stated otherwise, any Quotation is exclusive of any transportation, freight, postage, packaging, handling, insurance, GST and other taxes and duties which may be applicable (where applicable, GST will be charged at the appropriate rate at the date of invoice).

6.2 The Customer may make an offer to purchase Goods and/or Services by placing an order with the Supplier, and the Charges for the Goods and/or Services will be as agreed by the Supplier and the Customer at the time of the Customer's order.

6.3 The Customer acknowledges that the Supplier may vary the Charges from time to time with at least 30 days' notice to the Customer. The Customer agrees that the purchase of any Goods and/or Services after the effective date specified in a notice of variation will be deemed to be an acceptance of such varied Charges. If the Customer does not agree to the variation, it may terminate the Agreement by providing notice to the Supplier before the effective date of the variation.

6.4 The Supplier may accept or refuse any order for Goods and/or Services in its absolute discretion (for example, the Supplier may refuse an order placed more than 60 days after the Supplier issued a Quotation) and may make its acceptance of an order conditional upon it receiving a satisfactory credit assessment of the Customer. No contract for the supply of Goods and/or Services will be formed until a Customers' order has been accepted by the Supplier.

6.5 Unless expressly stated otherwise, the price of an order is exclusive of any transportation, freight, postage, packaging, handling, insurance, GST and other taxes and duties which may be applicable.

6.6 Once an order from a Customer has been accepted by the Supplier, the Supplier shall be entitled, by notice to the Customer, to alter the price of Goods and/or Services in the order or invoice with reasonable notice prior to the Goods and/or Services being dispatched:

(a) as a consequence of currency fluctuations or changes in taxes, customs duty or other government imposts after placement of the order;

(b) if the price was due to an administrative error or Supplier mistake.

The Customer may consider an alteration made under subclauses (a) and (b), and choose not to proceed with the purchase by providing notice to the Supplier Within 7 days after receipt of the Supplier's notice of the price alteration.

6.7 Once an order from a Customer has been accepted by the Supplier, the order cannot be cancelled or varied by the Customer except:

(a) Due to a price alteration under subclauses 6.5 (a) and (b);

(b) By providing notice of the cancellation or variation prior to the order being prepared for delivery or collection (as the context requires); or

(c) In accordance with clause 13.2.

6.8 In addition to the charges for the Goods and/or Services set out in this clause 6, reasonable additional charges may be applied and charged to the Customer for variations, including for example, changes in the Delivery Place or access to the Delivery Place which cause the Supplier to incur additional expense, or requests to remove Non-Accepted Waste.

7. ACCOUNT TERMS

7.1 Unless otherwise agreed in writing by the Supplier, the Customer will pay for all Charges for: (a) Goods delivered at the time of delivery; and (b) Services at the time they are provided.At the Supplier's sole discretion, a non-refundable deposit may be required from the Customer.

7.2 Where the Supplier has agreed to extend credit to the Customer for the purchase of Goods and/or Services, the Customer must pay for the Charges within 30 days after the end of the calendar month in which the Goods and/or Services are supplied (or within such other period that may be determined or agreed by the Supplier).

7.3 Credit extended to the Customer for all Goods and/or Services provided is at the absolute discretion of the Supplier. Any credit limit approved by the Supplier shall be notified in writing to the Customer.

7.4 The Supplier will be entitled to set off against any money owing to the Customer amounts owed to the Supplier by the Customer on any account whatsoever.

7.5 Payments under these Terms must be made by direct credit or credit card. Payments will be applied to outstanding invoices of the Customer at the Supplier's sole discretion. The Supplier reserves the right to charge a credit card handling fee at reasonable rates advised by the Supplier from time to time.

7.6 If the Customer does not pay the Supplier by the due date, the Customer shall pay interest on monies due, charged on a daily basis at 10% per annum from the due date of the invoice until the actual date of payment. If the Customer has a credit account with the Supplier, the Supplier may debit the Customer for any interest that accrues from time to time.

7.7 If the Customer owes the Supplier any money and fails to pay the Supplier the money when due, the Customer shall pay all enforcement and collection costs including legal fees (on a solicitor/client indemnity basis) and dishonoured cheque fees suffered or incurred by the Supplier in connection with enforcing and collecting payment for the supply of Goods and/or Services by the Supplier.

7.8 The Supplier may vary or withdraw the Customer's credit facilities for future purchases of Goods and/or Services at any time by notice in writing to the Customer. The Customer agrees that the purchase of any Goods and/or Services after the date of a notice of variation or withdrawal will be deemed to be an acceptance of such variation.

7.9 The Customer must pay the Charges in full without any deduction, set off or counter claim.

7.10 In the event that:

(a) the Supplier retains possession or control of the Goods;

(b) payment of the Charges in relation to those Goods is due to the Supplier;

(c) the Supplier has made a demand in writing to the Customer for payment of the Charges;

(d) and the Supplier has not received payment from the Customer, then, the Supplier may dispose of the Goods on such terms as it sees fit.

8. DELIVERY

8.1 Goods and/or Bins will be delivered or deemed to be delivered when they are delivered to: (a) the delivery place nominated by the Customer; or (b) if the Customer does not nominate a delivery place, when they are ready for collection at the Supplier's premises ("Delivery Place").

8.2 The Supplier may leave the Goods and/or Bins at the Delivery Place, or may collect the Bins from the Delivery Place (as the context requires) whether or not any person is present to accept delivery and the Supplier is not obliged to obtain a signed delivery receipt.

8.3 Where the Supplier cannot access the Delivery Place, the Goods and/or Bins shall be delivered and left as close as practicable to the Delivery Place and delivery will be deemed to have occurred.

8.4 The Supplier reserves the right to elect to either dispose of the Goods or charge reasonable charge for storage if delivery instructions are not provided by the Customer within 14 days of a request by the Supplier for such information.

8.5 The Supplier reserves the right to deliver Goods by instalments. Failure to deliver any instalment on time shall not be a repudiation of the contract and will not entitle the Customer to terminate the contract in whole or in part.

8.6 The Supplier agrees to notify the Customer if it is or will be delayed in delivery of Goods, Bins and/or Services. Despite any other provision of these Terms, the Supplier shall not be liable to the Customer for any Claims or Loss attributable to any delay in the delivery or supply of the Goods, Bins and/or Services.

8.7 Any notified times or dates for delivery are estimates only and, despite any other provision of the Terms, the Supplier shall not be liable to the Customer for any delay in delivery of Goods and/or Services occasioned by strike, lockout or other industrial dispute, shortage of stock, shortage of labour, lack of skilled labour, delays in transit, fire, flood, hostility, civil commotion, pandemic, epidemic or any other cause whatsoever whether or not beyond the control of the Supplier (including any breach of contract or negligence by the Supplier).

8.8 Unless agreed otherwise in writing, prior to delivery, the unloading of Goods and/or Bins is the Customer's responsibility. The Supplier is not responsible for any damage resulting from the unloading of Goods by the Customer, or by anyone on its behalf.

8.9 The Supplier will rely on the information the Customer provides in respect of the Delivery Place.

8.10 The Customer must ensure that there is unobstructed and safe access for the Supplier to perform the Services at the Delivery Place.

9. PROPERTY AND RISK

9.1 Risk in the Goods will pass to Customer as soon as they are delivered at the Delivery Place. Risk in each Bin will return to the Supplier as soon as the Supplier collects the Bin from the Customer's premises. Risk in Waste and Non-Accepted Waste will be dealt with under clause 3.

9.2 Other than in respect of Bins, which remain the property of the Supplier at all times, property in and title to the Goods will not pass to the Customer until payment in full of the Charges and all other amounts payable to the Supplier by the Customer. Until property and title in the Goods pass to the Customer:

(a) the Customer holds the Goods as trustee on trust for the Supplier;

(b) the Goods must be stored separately and in a manner enabling them to be identified as Goods of the Supplier and cross-referenced to particular invoices and the Customer acknowledges that if it should process or mix the Goods with other products or items such that the Goods are no longer separately identifiable then the Customer and the Supplier will be owners in common of the new product;

(c) if the Customer sells the Goods it must hold the proceeds of sale in a separate account on trust for the Supplier and account to the Supplier for those proceeds; and

(d) the Supplier may require the Customer to return the Goods to the Supplier or its authorised representative on demand and the Customer grants the Supplier a licence to enter upon the premises of the Customer or any other premises occupied or controlled by the Customer to inspect or repossess the Goods;

(e) Notwithstanding anything else in this Agreement, property in the Bins remains with the Supplier at all times and does not pass to the Customer at any time.

10. RETURN OF GOODS

10.1 Subject to clauses 9, 11.2, 11.3 and 11.5 unless agreed in writing by the Supplier, the Supplier will not accept any return of Goods other than Bins.

10.2 If Goods other than Bins are accepted for return by the Supplier under this clause (other than pursuant to clauses 11.2, 11.3 and 11.5):

(a) the Customer will pay a reasonable restocking charge to the Supplier;

(b) the original invoice number and a copy of the original invoice must accompany all Goods returned to the Supplier; and

(c) the Supplier, in its sole discretion, may request immediate payment of this charge by the Customer upon return of the Goods.

11. LIMITATION OF LIABILITY

11.1 Subject to clause 11.2 all warranties, descriptions, representations, guarantees or conditions, which would otherwise be implied by law, trade, custom or otherwise, are, to the fullest extent permitted by law, expressly excluded from the Terms and the Agreement.

11.2 These Terms shall not exclude, or limit the application of any provisions of any statute including any implied condition or warranty, the exclusion or limitation of which would contravene any statute (including the Competition and Consumer Act 2010 (Cth)) or cause any part of these Terms to be illegal, invalid, void or unenforceable.

11.3 Except to the extent prohibited by law but notwithstanding any other provision of these Terms or the Agreement, the Supplier's liability for any Claims or Loss arising out of these Terms or the Agreement, including any liability for breach of these Terms or the Agreement, in negligence or in tort or for any other common law or statutory action, shall:

(a) be limited to the extent the Claim or Loss was caused directly by the Supplier; and

(b) in all events, exclude any Claims and Loss relating to any delay in supply of Goods and/or Services and any Consequential Loss.

11.4 Unless the Goods and/or Services supplied by the Supplier are of a kind ordinarily acquired for domestic household or personal use or consumption, except to the extent prohibited by law but otherwise despite any other provision of these Terms or the Agreement, the Supplier's liability under clause 11.2 for breach of a non-excludable condition or warranty is limited at the Supplier's option, to any one of the following:

(a) in the case of Goods:

(i) the replacement of the Goods or the supply of equivalent Goods;

(ii) the repair of the Goods;

(iii) the payment of the cost of providing replacement Goods or of acquiring equivalent Goods; or

(iv) the payment of the cost of having the Goods repaired,

(b) in the case of Services:

(i) the supplying of the Services again; or

(ii) the payment of the cost of having the Services supplied again.

11.5 Except to the extent prohibited by law but despite any other provision of these Terms or the Agreement, the Supplier shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:

(a) The Customer failing to properly maintain or store any Goods;

(b) The Customer using the Goods for any purpose other than that for which they were designed;

(c) The Customer continuing the use of any the Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;

(d) The Customer failing to follow any instructions or guidelines provided by the Supplier;

(e) The Customer failing to use the Goods in accordance with applicable codes, laws and Australian Standards; or

(f) Fair wear and tear, any accident or act of God.

11.6 The Customer must inspect the Goods for damage and defects as soon as reasonably practicable (and no later than seven (7) days) after the date of delivery. The Supplier will not be liable for any Claims or Loss arising from the Customer's failure to comply with this clause.

12. GST

12.1 In this clause the expressions "GST", "Input tax credit", "tax invoice", "recipient" and "taxable supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999.

12.2 Unless otherwise expressly stated all amounts stated to be payable by Customer under these Terms are exclusive of GST.

12.3 If GST is imposed on any supply made under or in accordance with these Terms, the recipient of the taxable supply must pay the Supplier an additional amount equal to the GST payable on or for taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply subject to the provision of a tax invoice.

13. DEFAULT AND TERMINATION

13.1 Without prejudice to any other rights it may have, the Supplier may terminate the Agreement if:

(a) there is any default or failure by the Customer in making due and punctual payment to the Supplier of any moneys owing by the Customer;

(b) an administrator, liquidator or provisional liquidator is appointed in respect of the Customer;

(c) a receiver and manager, administrator or controller is appointed in respect of any assets or groups of assets of the Customer;

(d) the Customer goes into bankruptcy or is wound up;

(e) the Customer becomes, admits in writing that it is, or is declared by a court to be unable to pay its debts as and when they fall due;

(f) the Customer commits a material breach of these Terms or the Agreement;

(g) there is a breach by the Customer of any of these Terms and the breach has not been remedied within 14 days' of the Supplier providing notice of the breach;

13.2 Without prejudice to any other rights it may have, the Customer may terminate the Agreement if:

(a) an administrator, liquidator or provisional liquidator is appointed in respect of the Supplier;

(b) a receiver and manager, administrator or controller is appointed in respect of any assets or groups of assets of the Supplier;

(c) the Supplier goes into bankruptcy or is wound up;

(d) the Supplier becomes, admits in writing that it is, or is declared by a court to be unable to pay its debts as and when they fall due;

(e) the Supplier commits a material breach of these Terms or the Agreement;

(f) there is a breach by the Supplier of any of these Terms and the breach has not been remedied within 14 days' of the Customer providing notice of the breach.

14. TRUST AND TRUSTEES

14.1 Where the Customer is a trustee:

(a) the Customer agrees to produce a stamped copy of the trust deed (with all amendments) and accounts of the trust if and when requested by the Supplier; and

(b) the Customer warrants that it has full power and authority to enter into this Agreement on behalf of the trust and that it shall be bound by these Terms both personally and in their capacity as trustee irrespective of whether or not it discloses to the Supplier that it is a trustee at the time of entering into any credit agreement with the Supplier;

(c) the Customer warrants that the trust has agreed to indemnify the trustee in respect of all liability incurred by the trustee pursuant to this Agreement; and

(d) the trustee of the trust acknowledges that it has entered into this Agreement in its capacity as trustee of the trust and also in its own capacity.

15. PERSONAL PROPERTY SECURITIES ACT 2009 (PPSA)

15.1 In this clause:

(a) “financing statement” has the meaning given to it by the PPSA;

(b) “financing change statement” has the meaning given to it by the PPSA;

(c) “security agreement” means the security agreement under the PPSA created between the Customer and the Supplier by these Terms;

(d) “security interest” has the meaning given to it by the PPSA; and

(e) “PPSR” means the Personal Property Securities Register.

15.2 The Customer acknowledges and agrees that these Terms:

(a) constitute a security agreement for the purposes of the PPSA; and

(b) constitutes the grant of a purchase money security interest by the Customer in favour of the Supplier in respect of all present and after acquired goods supplied to the Customer by the Supplier;

(c) create a security interest in:

(i) all Goods previously supplied by the Supplier to the Customer (if any); and

(ii) all Goods that will be supplied in the future by the Supplier to the Customer.

15.3 The Customer undertakes to:

(a) promptly sign any further documents and/or provide any further information which the Supplier may reasonably require to:

(i) register a financing statement or financing change statement in relation to a security interest on the PPSR;

(ii) register any other document required to be registered by the PPSA; or

(iii) correct a defect in a statement referred to in clauses 15.3(a)(i) and 15.3(a)(ii).

(b) indemnify, and upon demand reimburse, the Supplier for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;

(c) not register a financing change statement in respect of a security interest without the prior written consent of the Supplier; and

(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of the Supplier.

(e) immediately advise the Supplier 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.

15.4 The Supplier and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these Terms.

15.5 The Customer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d),132(4) and 135 of the PPSA.

15.6 The Customer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA and agrees that the application of Part 4.3 (other than sections 123, 124, 126, 128, 129(1), 133, 134(1) and 136) is contracted out of if that part would apply by virtue of section 116(2) of the PPSA.

15.7 Unless otherwise agreed to in writing by the Supplier, the Customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.

15.8 The Customer shall unconditionally ratify any actions taken by the Supplier under clauses 15.3 to 15.7.

15.9 The Customer shall unconditionally ratify any actions taken by the Supplier under clauses 15.3 to 15.7.

16. CREDIT APPLICATION

16.1 This clause 16.1 applies where the Customer accepts these Terms by completing a credit application. Each of the Customer and the Directors hereby acknowledge, affirm and agree that:

(a) this application has been provided to the Supplier to enable each of the Customer and its Directors to take it away and read it so that they may fully understand and comprehend the terms conditions and provisions contained herein;

(b) they have read, fully understand and comprehend the terms, conditions and provisions contained in this application;

(c) they have been advised by the Supplier prior to the execution of this application that a copy of this application form containing the forms of this application has been provided to the Customer and each Director to enable them to obtain independent legal advice and they have take such advice as to us has seemed appropriate;

(d) they have full power and authority to enter into the Agreement;

(e) the Supplier will rely on all information given to the Supplier by the Customer and the Directors and this information is true and correct.

16.2 The parties agree and acknowledge that an application to trade with the Supplier (including a credit application) may be completed by the Customer utilising the Supplier's online application process through the Supplier's website. This may include the insertion of the Customer's electronic signature. Once an application is completed in this method and the application is deemed acceptable by the Supplier, the parties agree that the Supplier may rely on the application as if it had been executed by the Customer by means of wet ink signatures. To be clear, once the application is accepted by the Supplier, if Goods are supplied by the Supplier to the Customer, the Customer agrees that such supply of Goods are made on the basis of these Terms as if the Terms had been executed by the Supplier and Customer by means of wet ink signatures.

17. GOVERNING LAW

These Terms shall be governed by and construed in accordance with the laws of New South Wales.

18. NOTICES

18.1 Notice to be given by the Customer to the Supplier may be delivered personally or sent to the Supplier at its current business address at 2 Wella Way, Somersby, New South Wales.

18.2 Invoices, statements and other notices are deemed received by the Customer on the second business day after posting by ordinary prepaid post, or when sent to a Customer Email Address, or when viewed by the Customer on the Supplier's online ordering platform.

19. GENERAL PROVISIONS

19.1 Except to the extent prohibited by law but otherwise despite any other provision of these Terms or the Agreement, the Supplier's maximum aggregate liability for any Claims or Loss arising out of or in connection with these Terms or the Agreement, including liability for any breach of these Terms or the Agreement, in negligence or in tort or for any other common law or statutory action is the Charges of the Goods.

19.2 Except in relation to any payment obligation under these Terms, neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, pandemic, epidemic or other event beyond the reasonable control of either party.

19.3 A failure by a party to exercise any right, power, remedy or any delay in the exercise of any such right, power or remedy under the Agreement and/or these Terms or the granting of any time or other indulgence the by a party to the other party will not operate as a waiver of the first party's rights under the Agreement and/or these Terms. Waiver of a party's rights may only occur in writing and subject to the restrictions in clause 4.7.

19.4 Each party must execute any document and perform any action necessary to give full effect to these terms, whether before, or after performance of these Terms

20. NEW SUPPLIER GROUP ENTITIES

20.1 The Customer and the Supplier intend for all New Supplier Group Entities to have the benefit of these Terms.

20.2 The Customer covenants that it will only order Goods and/or Services from a New Supplier Group Entity on the condition that these Terms apply to such an order and that the New Supplier Group Entity will have the benefit of and may enforce these Terms irrespective of the fact that the New Supplier Group Entity may not have been in existence or a Supplier Group entity at the time of initial acceptance by the Customer of these Terms.

20.3 The Customer acknowledges that, in consideration of facilitation of an extension of credit by a New Supplier Group Entity to the Customer, the Supplier as at the date of this Agreement holds the benefit of the promises made under clause 20.2 as trustee on behalf of that entity.

21. PRIVACY

21.1 Each of the undersigned Customer and/or Directors of the Customer (referred to in this clause as "you" or "your") acknowledge that the information provided in this application is the basis for valuation by the Supplier of the financial standing and credit worthiness of the Customer and each of them and do hereby:

(a) confirm that the information provided in this application is true and correct;

(b) authorise the Supplier to make such enquiries and receive such information from the bankers and business referees mentioned in the application and otherwise from anyone as the Supplier may consider necessary;

(c) acknowledge that the Supplier has informed you, in accordance with the Privacy Act 1988 (Cth) as amended, that certain items of personal information, including an opinion, about you are permitted to be kept on a credit information file and might be disclosed to credit reporting agencies*;

(d) in accordance with the Privacy Act 1988 (Cth) as amended:

(i) agree to the Supplier obtaining from a business which provides information about the commercial credit worthiness of persons, information concerning your commercial activities or commercial credit worthiness and using such information for the purpose of assessing this application;

(ii) authorise the Supplier to exercise your rights of access to our credit information files and credit reports;

(iii) agree that the Supplier may give to and seek from any credit providers (whether or not named in this application) reports and information that have any bearing on your credit worthiness, credit standing, credit history or credit capacity for any of the following purposes:

(1) to assess an application by you for credit or commercial credit;

(2) to notify other credit providers of a default by you;

(3) to exchange information with other credit providers as to the status of your account where you are in default with the Supplier or other credit provider;

(4) to assess your credit worthiness at any time;

(5) to assess whether to continue supply credit to you;

(e) agree that the Supplier may seek, from a credit reporting body, a credit report containing personal information about you to assess whether to accept you as guarantors for credit applied for, or provided to, the Customer;

(f) agree that the Supplier may deal with your personal information in line with the privacy policy found at [insert link];

(g) agree that the Supplier may deal with your credit information in line with its credit reporting policy found at [insert link];

(h) agree that these authorisations shall continue to have effect for the duration of the period during which credit or commercial credit is provided or sought by the Customer from the Supplier.

* For more information about how we may disclose your credit information to credit reporting bodies, please refer to the statement of notifiable matters on our website [insert link] which includes the credit reporting bodies to which we are likely to disclose your credit information. You may also request this statement of notifiable matters in another form, for instance in a hard copy. We will provide you with notice of any updates to the policies referenced in this clause.