

**1. Definitions**

- 1.1 "Supplier" shall mean Chloe&Jule ABN 50047142401 and its successors, assigns, or any person acting on behalf of and with the authority of the Supplier.
- 1.2 "Buyer" shall mean the person or entity described as the Applicant/Customer on an invoice or any person acting on behalf of and with the authority of the Buyer and/or the person/s ordering or purchasing the goods as specified in any invoice, receipt, document or order, and if there is more than one person, the term 'Buyer' is a reference to each person jointly and severally.
- 1.3 "CCA" means the Competition and Consumer Act 2010, as may be amended from time to time.
- 1.4 "Guarantor" means that person (or persons), or entity who agrees herein to be liable for the debts of the Buyer on a principal debtor basis and/or who otherwise sign the Deed of Guarantee and Indemnity.
- 1.5 "Goods" shall mean any and all goods supplied by the Supplier to the Buyer (and where the context so permits shall include any supply of Services as hereinafter defined) from time to time.
- 1.6 "Services" shall mean any and all services supplied by the Supplier to the Buyer from time to time and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined).
- 1.7 "Price" shall mean the cost of the Goods as agreed between the Supplier and the Buyer subject to clause 5 of this contract.

**2. Acceptance**

- 2.1. The Buyer is taken to have exclusively accepted and is immediately bound by these terms and conditions if the Buyer places an order with the Supplier or accepts delivery of the Goods, or Goods are supplied to the Buyer by the Supplier.
- 2.2. Where more than one Buyer has entered into this agreement, the Buyer's shall be jointly and severally liable for all payments of the Price. The Supplier may, at any time, unilaterally vary the terms of trade in its absolute and unfettered discretion.
- 2.3. These terms and conditions may only be ended with the Supplier's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Supplier and the Buyer.

**3. Change in Control**

- 3.1. The Buyer shall give the Supplier not less than fourteen (14) days prior written notice of any proposed change of control or ownership or office holding of the Buyer and/or any other change in the Buyer's details. The Buyer shall be liable for any loss incurred by the Supplier as a result of the Buyer's failure to comply with this clause.

**4. Goods**

- 4.1 The Goods are as described on the invoices, quotation, work authorisation or any other work commencement forms as provided by the Supplier to the Buyer.

**5. Price And Payment**

- 5.1 At the Supplier's sole discretion, the Price shall be either;
  - (a) the Price as indicated on invoices provided by the Supplier to the Buyer in respect of Goods supplied; or
  - (b) the Supplier's current Price, at the date of delivery of the Goods, according to the Supplier's current price list; or
  - (c) Subject to clause 5.2, the Supplier's quoted Price which shall be binding upon the Supplier provided that the Buyer shall accept in writing the Supplier's quotation within thirty (30) days.
- 5.2 The Supplier reserves the right to change the Price at any time and without prior notice:
  - (a) if a variation to the Goods which are to be supplied or a variation from the plan of scheduled works or specifications is requested; or
  - (b) in the event of increases to the Supplier's in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/ or

international freight and insurance charges) which are beyond the Supplier's control.

- 5.3 Payment for all variations must be made in full at their time of completion.
- 5.4 At Suppliers sole discretion a non-refundable deposit may be required.
- 5.5 Time for payment for the Goods shall be of the essence and will be stated on the invoice, quotation or any other order forms. If no time is stated then payment shall be due by the Buyer on the date/s determined by the Supplier, which may be:
  - (a) on delivery of the Goods;
  - (b) before delivery of the Goods
  - (c) by way of instalments/progress payments in accordance with the Supplier's payment schedule
  - (d) the date specified on any invoice or other form as being the date for payment; or
  - (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Buyer by the Supplier.
- 5.6 The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by the Supplier.

**6. Delivery Of Goods / Services**

- 6.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:
  - (a) the Buyer or the Buyer's nominated carrier takes possession of the Goods at the Suppliers address; or
  - (b) the Supplier (or the Supplier's nominated carrier) delivers the Goods to the Buyer's nominated address even if the Buyer is not present at the address.
- 6.2 Delivery of the Goods to a carrier, either named by the Buyer or failing such naming to a carrier at the discretion of the Supplier for the purpose of transmission to the Buyer, is deemed to be a delivery of the Goods to the Buyer.
- 6.3 Where there is no agreement that the Supplier shall send the Goods to the Buyer, delivery to a carrier at the expense of the Buyer is deemed to be delivery to the Buyer.
- 6.4 At the Supplier's sole discretion the cost of delivery is either included in the Price or is in addition to the Price.
- 6.5 The Buyer must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Buyer is unable to take delivery of the Goods as arranged then the Supplier shall be entitled to charge a reasonable fee for redelivery and/or storage. The Buyer shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or less than the quantity purchased provided that;
  - (a) the Price shall be adjusted pro rata to the discrepancy.
- 6.6 The failure of the Supplier to deliver shall not entitle either party to treat this contract as repudiated.
- 6.7 Any time or date given by the Supplier to the Buyer is an estimate only. The Supplier shall not be liable for any loss or damage whatsoever due to failure by the Supplier to deliver the Goods (or any of them) promptly or at all.

**7. Risk**

- 7.1 Responsibility, risk of damage to or loss of the Goods passes to the Buyer on Delivery and the Buyer must insure the Goods on or before Delivery.
- 7.2 If the Buyer requests the Supplier to leave Goods outside the Supplier's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Buyer's sole risk.

**8. Buyer Disclaimer**

- 8.1 The Buyer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to them by any servant or agent of the Supplier and the Buyer acknowledges that they buy the Goods relying solely upon his own skill and judgement and that the Supplier shall not be bound by nor responsible for any term, condition, representation or warranty other than the warranty given by the Manufacturer which warranty shall be

personal to the Buyer and shall be personal to the Buyer and be transferable to any subsequent Buyer.

**9. Defects>Returns/Warranties**

- 9.1. The Buyer shall inspect the Goods on Delivery and shall within two (2) working days of delivery notify the Supplier of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Buyer shall afford the Supplier an opportunity to inspect the Goods within a reasonable time following delivery if the Buyer believes the Goods are defective in any way. If the Buyer shall fail to comply with these provisions, the Goods shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.
- 9.2. Under applicable State, Territory and Commonwealth Law (including, without limitation the Competition and Consumer Act 2010 (CCA)), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions.
- 9.3. The Supplier acknowledges that nothing in these terms and conditions purports to modify or exclude the guarantees and warranties which cannot be excluded under the CCA.
- 9.4. If the Buyer is a consumer within the meaning of the CCA, the Supplier's liability is limited to the extent permitted by section 64A of Schedule 2 of the CCA.
- 9.5. Except as expressly set out in these terms and conditions or in respect of the guarantees and warranties which cannot be excluded under the CCA, the Supplier makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. The Supplier's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 9.6. If the Supplier is required to replace the Goods under the provisions of the CCA, but is unable to do so, the Supplier may refund any money the Buyer has paid for the Goods.
- 9.7. If the Buyer is not a consumer within the meaning of the CCA, the Supplier's liability for any defect or damage in the Goods is:
  - (a) limited to the value of any express warranty provided to the Buyer by the Supplier at the Supplier's sole discretion;
  - (b) limited to any warranty to which the Supplier is entitled, if the Supplier did not manufacture the Goods;
  - (c) otherwise negated absolutely.
- 9.8. Subject to this clause 9 and the provisions of the CCA, returns will only be accepted provided that:
  - (a) the Buyer has complied with the provisions of clause 9.1; and
  - (b) the Supplier has agreed that the Goods are defective; and
  - (c) the Goods are returned within a reasonable time at the Buyer's cost (if that cost is not significant); and
  - (d) the Goods are returned in as close a condition to that in which they were delivered as is possible.
- 9.9. Notwithstanding clauses 9.1 to 9.8 and subject to the CCA, 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 Buyer failing to properly maintain or store any Goods;
  - (b) the Buyer using the Goods for any purpose other than that for which they were designed;
  - (c) the Buyer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
  - (d) the Buyer failing to follow any instructions or guidelines provided by the Supplier;
  - (e) fair wear and tear, any accident, or act of God.
- 9.10. The Supplier may in its absolute discretion accept non-defective Goods for return in which case the Supplier may require the Buyer to pay handling fees of up to ten percent (10%) of the value of the returned Goods plus any freight costs.
- 9.11. Notwithstanding anything contained in this clause if the Supplier is required by a law to accept a return then the Supplier will only accept a return on the conditions imposed by that law.

**10. Cancellation**

- 10.1. The Supplier may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 10.2. Upon cancellation with or without notice all liabilities incurred by the Buyer become immediately due and payable to the Supplier

**11. Intellectual Property**

- 11.1. The Buyer shall indemnify the Seller against any claims by third parties for patent, trademark, design or copyright infringement, directly or indirectly arising out of the design, workmanship, material, construction, or use of the Goods or any other deficiency therein. Where the Buyer has supplied drawings, sketches, files or logo's to the Seller, the Buyer warrants that the drawings, sketches, files or logo's do not breach any patent, trademark, design or copyright, and the buyer agrees to indemnify the Seller against any action taken by a third party against the Seller.

**12. Default & Consequences Of Default**

- 12.1. Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and shall accrue at such a rate after as well as before any judgement.
- 12.2. If the Buyer defaults in payment of any invoice when due, the Buyer shall indemnify the Supplier from and against all costs and disbursements incurred by the Supplier in recovering the debt (including but not limited to internal administration fees, legal costs of a solicitor and own client basis, the Supplier's contract default fees, and bank dishonour fees).
- 12.3. The Buyer will be in breach and default of these terms and conditions if the Buyer:
  - (a) fails to pay any of its accounts with the Supplier on time and in accordance with the payment terms pursuant to these terms and conditions or if in the Supplier's opinion the Buyer will be unable to make a payment when it falls due;
  - (b) breaches or defaults on any of its obligations under these terms and conditions;
  - (c) the Buyer becomes bankrupt;
  - (d) the Buyer 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
  - (e) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer.
- 12.4. Without prejudice to any other remedies the Supplier may have, if at any time the Buyer is in breach of any obligation (including those relating to payment), the Supplier:
  - (a) may suspend or terminate the supply of Goods to the Buyer and any of its other obligations under the terms and conditions. The Supplier will not be liable to the Buyer for any loss or damage the Buyer suffers because the Supplier exercised its rights under this clause.
  - (b) shall be entitled to cancel all or any part of any order of the Buyer which remains unfulfilled and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable
- 12.5. If any account remains unpaid at the end of the second month after supply of the goods or services the following shall apply: An immediate amount of the greater of \$20.00 or 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable.

**13. Title**

- 13.1. It is the intention of the Supplier and agreed by the Buyer that property and title in the Goods shall not pass until:
  - (a) The Buyer has paid all amounts owing for the particular Goods and, further, until the Buyer has made payment in full of all other money owing by the Buyer to the Supplier (whether in respect of money payable under a specific contract or on any other account whatsoever); and

- (b) The Buyer has met all other obligations due by the Buyer to the Supplier in respect of all contracts between the Supplier and the Buyer.
- 13.2 Receipt by the Supplier of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Supplier's ownership of rights in respect of the Goods shall continue.
- 13.3 Until payment in full has been made and ownership of the Goods has passed to the Buyer, the Buyer 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 shall not mix the Goods with other similar goods.
- 13.4 The Buyer's indebtedness to the Supplier, whether in full or in part, shall not be discharged by the operation of clause 13.3 hereof unless and until the funds held on trust are remitted to the Supplier.
- 13.5 The Buyer provides the Supplier with irrevocable authority and agrees that whilst property and title in the Goods remains with the Supplier, the Supplier has the right, with or without prior notice to the Buyer, to enter upon any premises occupied by the Buyer (or any receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy of the Buyer) to inspect the goods of the Supplier and to repossess the goods which may be in the Buyer's possession, custody or control when payment is overdue.
- 13.6 It is further agreed that:
- (a) Until such time as ownership of the Goods shall pass from the Supplier to the Buyer the Supplier may give notice in writing to the Buyer to return the Goods or any of them to the Supplier. Upon such notice the rights of the Buyer to obtain ownership or any other interest in the Goods shall cease.
  - (b) If the Buyer fails to return the Goods to the Supplier then the Supplier or the Supplier's agent may enter upon and into land and premises owned, occupied or used by the Buyer, or any premises as the invitee of the Buyer, where the Goods are situated and take possession of the Goods, without being responsible for any damage thereby caused.
  - (c) the Buyer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Buyer sells, disposes or parts with possession of the Goods then the Buyer must hold the proceeds of any such act on trust for the Supplier and must pay or deliver the proceeds to the Supplier on demand.
  - (d) The Buyer shall not deal with the money of the Supplier in any way which may be adverse to the Supplier.
  - (e) The Buyer holds the benefit of the Buyer's insurance of the Goods on trust for the Supplier and must pay to the Supplier the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
  - (f) the Buyer irrevocably authorises the Supplier to enter any premises at any reasonable time where the Supplier believes the Goods are kept in order to recover possession of the Goods and/or inspect, reposes or remove the Goods.
  - (g) The Supplier may recover possession of any Goods in transit whether or not delivery has occurred.
  - (h) The Buyer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of the Supplier.
  - (i) The Supplier may commence proceedings to recover the Price or the balance of the Price due together with any other amounts due from the Buyer to the Supplier notwithstanding that ownership of the Goods has not passed to the Buyer.

**14. Security And Charge**

- 14.1 Notwithstanding anything to the contrary contained herein or any other rights which the Supplier may have howsoever:
- (a) Where the Buyer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being

charged, both the Buyer 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 Supplier or the Supplier's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Buyer and/or the Guarantor acknowledge and agree that the Supplier (or the Supplier's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.

- (b) Should the Supplier elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Buyer and/or Guarantor shall indemnify the Supplier from and against all the Supplier's costs and disbursements including legal costs on a solicitor and own client basis.
- (c) To give effect to the provisions of clause [14.1 (a) and (b)] inclusive hereof the Buyer and/or the Guarantor (if any) do hereby irrevocably nominate constitute and appoint the Supplier or the Supplier's nominee as the Buyer's and/or Guarantor's true and lawful attorney to execute mortgages and charges (whether registerable or not) including such other terms and conditions as the Supplier and/or the Supplier's nominee shall think fit in his/her/its/their absolute discretion against the joint and/or several interest of the Buyer and/or the Guarantor in any land, realty or asset in favour of the Supplier and in the Buyer's and/or Guarantor's name as may be necessary to secure the said Buyer's and/or Guarantor's obligations and indebtedness to the Supplier and further to do and perform all necessary and other acts including instituting any necessary legal proceedings, and further to execute all or any documents in the Supplier's absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause.

**15. Personal Property Securities Act 2009 ("PPSA")**

- 15.1 Upon agreeing to these terms and conditions, the Buyer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods that have previously been supplied and that will be supplied in the future by the Supplier to the Buyer.
- 15.2 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 15.3 The Buyer undertakes to:
- (a) at the request of the Supplier, execute documents and do such further acts as may be required for the Supplier to:
    - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register (PPSR);
    - (ii) sign any documents and/or provide any further information required by the Supplier to be able to register the security interest granted by the Buyer under the PPSA;
    - (iii) register any other document required to be registered by the PPSA; or
    - (iv) correct a defect in a financing statement or a financing change statement.
  - (b) 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 Buyer or the Buyer's authorised representative;
  - (c) indemnify, and upon demand, reimburse the Supplier for all expenses incurred in registered a financing statement or financing change statement on the PPSR or releasing any Goods charged thereby;
  - (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. The Buyer further agrees that where the Supplier has rights in addition to those under part 4 of the PPSA, those rights will continue to apply and hereby consents to the execution, registration and perfection of each and every security interest and the Buyer agrees that any security interest created will have priority in respect of the secured property.
- 15.4 To the extent the law permits for the purposes of sections 115(1) and 115(7) of the PPSA:
- (a) The Supplier need not comply with sections 95, 96, 118, 121(4), 125, 129, 130, , 132(3)(d), 132(4) and 135 of the PPSA; and
- (b) Sections 142 and 143 of the PPSA are excluded;
- (c) for the purposes of section 115(7) of the PPSA, the Supplier need not comply with sections 132 and 137(3).
- 15.5 To the extent the law, the Buyer and each of the Guarantors waives its rights to receive any notice that is required by:
- (a) any provision of the PPSA (including a notice of a verification statement; or
- (b) any other law before the Supplier or a receiver exercises a right, power or remedy; or
- (c) any time period that must otherwise lapse under any law before the Supplier or a receiver exercises a right power or remedy.
- 15.6 If a law which required a period to notice or a lapse of time cannot be exclude, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period that the law allows to be agreed (whichever is the longer). However, nothing in this clause prohibits the Supplier or any receiver from serving a notice under the PPSA or pursuant to any other law.
- 15.7 The Buyer agrees to unconditionally ratify any actions taken by the Supplier under clauses 15.3 to 15.6.
- 15.8 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
- 15.9 The Buyer acknowledges that the Supplier has the right to register the Goods on the PPSR;
- 15.10 The Buyer agrees to provide all relevant information to enable the Supplier to register the Goods on the PPSR and generally to maintain, obtain, register and enforce the security interests created pursuant to these terms and conditions.
- 15.11 The Buyer hereby consents to the execution, registration and perfection of each and every security interest and the Buyer agrees that any security interest created will have priority in respect of the secured property.
- 15.12 Unless otherwise agreed and to the extent permitted by the PPSA, the parties agree not to disclose any information of a kind referred to in section 275(1) of the PPSA to an interested person or any other person. The Buyer waives any right it has to authorise disclosure of the above information.
- 15.13 In addition to any rights the Supplier may have under Chapter 4 of the PPSA, the Supplier may, at any time, demand the return of the Goods and shall be entitled without notice to the Buyer and without liability to the Buyer, to enter any premises where it suspects the Goods may be located in order to search for and remove the Goods without committing a trespass, even though they may be attached or annexed to other goods or land not the property of the Buyer, and for this purpose the Buyer irrevocably licenses the Supplier to enter such premises, undertakes that it will procure any necessary authority to enter from any relevant person and also indemnifies the Supplier from and against all loss suffered or incurred by the Buyer as a result of exercising its rights under this clause. If there is any inconsistency between the Supplier's rights under this clause and its rights under Chapter 4 of the PPSA, this clause prevails
- 15.14 All costs and expenses arising as a result of actions taken by either party pursuant to this clause 16 will be for the account of the Buyer. Within 7 days of a written request, the Buyer must pay to the Supplier any costs or expenses incurred or to be incurred in connection with this clause 15.
- 15.15 Pursuant to section 125(3) of the PPS Act, the Supplier may delay disposing of, or taking action to retain, the whole or part of the collateral that it seizes under section 123 of the PPS Act, for as long as it sees fit in its absolute discretion.
- 15.16 The Supplier does not need to give the Buyer any notice required under the PPS Act (including, without limitation, a notice of a verification statement under section 157 of the PPS Act) unless the requirement for the notice cannot be excluded.
- 16. Lien**
- 16.1 Where the Supplier has not received or been tendered the whole of the price, or the payment has been dishonoured, the Supplier shall have:
- (a) a lien on the goods;
- (b) the right to retain them for the price while the Supplier is in possession of them;
- (c) a right of stopping the goods in transit whether or not delivery has been made or ownership has passed; and
- (d) a right of resale,
- (e) the foregoing right of disposal,
- provided that the lien of the Supplier shall continue despite the commencement of proceedings or judgement for the price having been obtained.
- 17. Privacy Act 1988**
- 17.1 The Buyer and/or the Guarantor/s agree for the Supplier to obtain from a credit-reporting agency a credit report containing personal credit information about the Buyer and Guarantor/s in relation to credit provided by the Supplier.
- 17.2 The Buyer and/or the Guarantor/s agree that the Supplier may exchange information about Buyer and Guarantor/s with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:
- (a) To assess an application by Buyer;
- (b) To notify other credit providers of a default by the Buyer;
- (c) To exchange information with other credit providers as to the status of this credit account, where the Buyer is in default with other credit providers; and
- (d) To assess the credit worthiness of Buyer and/or Guarantor/s.
- 17.3 The Buyer consents to the Supplier being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 17.4 The Buyer agrees that personal credit information provided may be used and retained by the Supplier for the following purposes and for other purposes as shall be agreed between the Buyer and Supplier or required by law from time to time:
- (a) provision of Services & Goods;
- (b) marketing of Services and or Goods by the Supplier, its agents or distributors in relation to the Services and Goods;
- (c) analysing, verifying and/or checking the Buyer's credit, payment and/or status in relation to provision of Services/Goods;
- (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Buyer; and
- (e) enabling the daily operation of Buyer's account and/or the collection of amounts outstanding in the Buyer's account in relation to the Services and Goods.
- 17.5 The Supplier may give, information about the Buyer to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about the Buyer; and or
- (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Buyer.
- 17.6 The information given to the credit reporting agency may include:
- (a) personal particulars (the Buyer's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
- (b) details concerning the Buyer's application for credit or commercial credit and the amount requested;

- (c) advice that the Supplier is a current credit provider to the Buyer;
- (d) 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;
- (e) that the Buyer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
- (f) information that, in the opinion of the Supplier, the Buyer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Buyer's credit obligations)

**18. General**

- 18.1 If any provision of these terms and conditions shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 18.2 The failure by the Supplier to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Supplier's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 18.3 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales in which the Supplier has its principal place of business and the laws of the Commonwealth, and are subject to the jurisdiction of the courts in New South Wales.  
All Goods supplied by the Supplier are subject to the laws of South Australia and the Supplier takes no responsibility for changes in the law which affect the Goods supplied.
- 18.4 The Supplier shall be under no liability whatsoever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Supplier of these terms and conditions.
- 18.5 In the event of any breach of this contract by the Supplier the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Supplier exceed the Price of the Services.
- 18.6 The Buyer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Buyer by the Supplier nor to withhold payment of any invoice because part of that invoice is in dispute.
- 18.7 The Supplier may license or sub-contract all or any part of its rights and obligations without the Buyer's consent.
- 18.8 The Supplier reserves the right to review these terms and conditions at any time and from time to time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which the Supplier notifies the Buyer of such change.
- 18.9 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.
- 18.10 The Supplier may license or sub-contract all or any part of its rights and obligations without the Buyer's consent.
- 18.11 The Buyer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.