

CUSTOMER CREDIT APPLICATION FORM

Please complete all sections and read the Terms and Conditions of Trade overleaf or attached

Date of Application / /		
Customer's Details: <input type="checkbox"/> Individual <input type="checkbox"/> Sole Trader <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/> Other:		
Full or Legal Name:		
Physical Address:	State:	Postcode:
Billing Address:	State:	Postcode:
Email Address:		
Phone No:	Fax No:	Mobile No:
Personal Details: <i>(please complete if you are an Individual)</i>		
DOB:	Driver's Licence No:	
Business Details: <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>		
Trading Name:		
ABN:	ACN:	Date Established <i>(current owners)</i> :
Contact Person:	Phone No:	
Nature of Business:		
Directors / Owners / Trustee: <i>(if more than two, please attach a separate sheet)</i>		
(1) Full Name:		D.O.B.
Private Address:	State:	Postcode:
Driver's Licence No:	Phone No:	Mobile No:
(2) Full Name:		
Private Address:	State:	Postcode:
Driver's Licence No:	Phone No:	Mobile No:
Credit Limited Required? \$	Expected Monthly Purchase? \$	
Solicitor Name:	Accountant Name:	
BUSINESS REFERENCES:		
Name:	Phone No:	
Name:	Phone No:	
Bank Name & Branch:	BSB:	Account Number:

I/We certify that the above information is true and correct and that I/We accept the supply of credit by the Contractor *(if applicable)*. I have read and understood the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of **ROLRAY ELECTRICAL Pty Ltd** which form part of and are intended to be read in conjunction with this Customer Information Form and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. ***I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Customer I shall be personally liable for the performance of the Customer's obligations under this contract.***

SIGNED (CUSTOMER):

Name: _____

Position: _____

WITNESS TO CUSTOMER'S SIGNATURE:

Signed: _____

SIGNED (CONTRACTOR):

Name: _____

Position: _____

Name: _____ Date: _____

TERMS OF TRADE:

1. Interpretation and Construction

1.1 Definitions

In these Terms of Trade, unless the context requires otherwise, the following words have the following meanings:

Contractor means ROLRAY ELECTRICAL Pty Ltd ACN 154 336 679 trading as Rolray Electrical ABN 59 154 336 679.

Customer means any person, organisation, or other entity that has requested the supply of goods and/or services from the Contractor as stated on any order, invoice, or document.

goods mean any goods available for sale by the Contractor to the Customer, at the Customer's request.

Intellectual Property means all processes, procedures, methodologies, techniques and/or inventions whether registered trademarks, designs, patents or not registered.

Order means any order made by the Customer from the Contractor for the supply of goods and/or services.

Quotation means any quotation issued by the Contractor to the Customer for the supply of goods and/or services.

Price means the price payable for the supply of goods and/or services in accordance with clause 4;

services mean any services to be rendered by the Contractor to the Customer, at the Customer's request; and

Terms means these terms of trade which apply to any supply of goods and/or services by the Contractor to the Customer.

1.2 Construction

- (a) a reference to these terms or agreement between the parties includes any variation or replacement.
- (b) a reference to a statute, ordinance, code, or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments, or replacements of any of them.
- (c) the singular includes the plural and vice versa.
- (d) the masculine includes the feminine and neuter and vice versa.
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes, employees, agents and permitted assigns.
- (f) an obligation, agreement, representation, or warranty on the part of or in favour of two or more persons binds, and/or is for the benefit of them jointly and severally.
- (g) a reference to anything is a reference to the whole or any part of it; and
- (h) references to parties or clauses are, unless otherwise stated, references to the parties and clauses contained in these Terms.

2. Supply of Goods and/or Services

- 2.1 The Contractor warrants that it holds all necessary licenses, insurances and permits required by the Contractor for the performance of the services. The Contractor is responsible for obtaining all necessary electrical work approval permits as required by any government authority. The Customer is responsible for obtaining any necessary consents as required from any government authority, including but not limited to matters including environmental approvals, land use and right of way.
- 2.2 The Contractor may issue a Quotation upon the Customer's request or otherwise accept an Order for the supply of goods and/or services from the Customer.
- 2.3 Any Quotation issued by the Contractor remains open for acceptance from the time stated on the Quotation or otherwise for 30 days unless withdrawn earlier. All Quotations are estimates only and are subject to withdrawal, correction, or alteration at any time prior to the Contractor's acceptance of the Customer's request. All amounts and prices stated on the Quotation are as at the date of the Quotation.
- 2.4 An Order shall identify the goods or services ordered and refer to any Quotation pursuant to which the Order is made.
- 2.5 The Contractor may supply, and the Customer must accept goods/services which vary from the goods and/or services ordered by the Customer so long as such variations are not material.
- 2.6 If the Customer requests a variation to the goods and services, the Contractor will provide a Quotation for the variation and if accepted by the Customer the cost of the variation is payable by the Customer in addition to the Price for the goods/services. The Customer is required to accept the variation by issuing a purchase order to the Contractor referring to the Quotation issued for the variation or otherwise agreeing to the Quotation issued for the variation in writing. The Contractor will not undertake any variation unless and until the Quotation for the variation has been accepted in accordance with this sub-clause. If the Customer does not accept the Quotation for the variation, the Contractor is not obliged to carry out the variation.
- 2.7 The Contractor may cancel or terminate any Order at any time without cause, in the Contractor's absolute discretion and in that event, the Contractor shall repay the Customer any money paid by the Customer and the Contractor is not liable for any loss or damages in any respect arising from any cancellation.
- 2.8 The Contractor reserves the right, whether an Order has been accepted and without notice to the Customer to withhold supply to the Customer and will not be liable for loss or damage resulting directly or indirectly from such action, including if the services

cannot be rendered for any reason whatsoever if the Customer is in default of these Terms or if the Contractor has determined in its absolute discretion that credit should no longer be extended to the Customer.

2.9 If the Customer cancels an Order, the Customer remains liable and shall indemnify and keep indemnified the Contractor for all loss is suffered (whether direct or indirect) by the Contractor as a direct result of the cancellation (including but not limited to restocking fees, cost of permits and approvals, design and drafting expenses, labour, and loss of profits).

3. Acceptance

3.1 The Customer warrants that it has the power to enter into this agreement, is solvent and able to pay its debts as and when they fall due, and this agreement creates a binding and legal obligation and all information provided to the Contractor by the Customer is true and correct in all material respects.

3.2 The Customer acknowledges these Terms apply to any Quotation or Order or other supply of goods and/or services and the Customer accepts the Terms without amendment and agrees to be bound by them.

3.3 The Customer agrees that the Terms apply over any other document or agreement to the extent of any inconsistency.

3.4 If the Customer is the trustee of a trust, then the Customer agrees to bind all trusts of which the entity is a trustee from time to time.

4. Payment, Credit and Price

4.1 The Price is the price determined by the Contractor, in its absolute discretion, the price in accordance with the Quotation, the price on any tax invoice rendered by the Contractor or the Price as at the date of supply in accordance with the Contractor's current price list. The Customer agrees if there is any change to cost or rates for insurance, duties, exchange rates, labour or any other amounts used to calculate the Price or amounts stated on the Quotation or if those inputs increase in cost then the Customer shall be liable for the increase and such increase forms part of the Price.

4.2 The Contractor may require the Customer to pay a non-refundable deposit.

4.3 Unless stated otherwise, the Price is exclusive of goods and services tax (GST).

4.4 The Customer agrees that GST at the prevailing rate at the date of invoice will be included in the amount due and payable on the Price and is payable by the Customer in full at the same time as payment of the Price. The Customer must also pay any other taxes, charges, duties or imports that may be applicable in addition to the Price, unless expressly included in the Price.

4.5 Unless stated otherwise, time for payment is of the essence and will be payable as nominated by the Contractor and may be altered or revoked at any time without notice to the Customer, either on or before the delivery of the goods and/or services, seven (7) days following the date of any tax invoice provided by the Contractor to the Customer or otherwise as stated on the invoice.

4.6 Payment must be made by cash, electronic payment, credit card or by any other payment method nominated by the Contractor. Payment by cheque is only accepted if the Customer has a Credit Account with the Contractor or otherwise in the Contractor's absolute discretion.

4.7 The Contractor may charge to the Customer a fee for overdue payments or Customer bank fees imposed on payments including credit card payments.

4.8 The Customer acknowledges that if the Contractor supplies the goods and/or service on credit, then any credit provided is to be applied wholly or predominately for business purposes. The grant of any credit facility or nomination of any credit limit is in the absolute discretion of the Contractor. The Contractor may vary, withdraw, or suspend any credit facility at any time and without any liability to the Customer or any other party.

5. Unpaid Invoices, Interest and Costs

5.1 If invoices or monies outstanding are not paid in full by the due date for payment, the Contractor may charge the Customer interest on the unpaid amount to be accrued daily from the date when payment becomes due until the date of payment at the rate of 2.5% per month compounding monthly both before and after any judgment obtained by the Contractor.

5.2 The Customer is not entitled to set off, deduct or otherwise withhold payment of any amount due and owing to the Contractor including where the Customer has disputed the invoice or alleged amounts are owed or will become owing by the Contractor to the Customer.

5.3 The Customer is liable for all costs and disbursements incurred by the Contractor or its appointed agents in recovering payment of any outstanding invoice or in enforcing its rights under these Terms, including, but not limited to, legal costs determined on a solicitor/own client basis, mercantile agents' costs or commission and bank dishonour fees.

5.4 The Contractor is entitled to retain any goods or other documents held on the Customer's behalf pending payment of any outstanding monies by the Customer.

6. Title

6.1 Until the Contractor receives full payment in cleared funds of all monies due for all goods and/or services supplied by it to the Customer, as well as all other amounts owing to the Contractor by the Customer and the Customer has complied with all obligations pursuant to these Terms:

- (a) title and property in all goods vests in the Contractor and do not pass to the Customer.
- (b) the Customer must hold the goods as fiduciary bailee and agent for the Contractor and must return the goods, including goods in transit which have not yet been delivered, to the Customer upon the Contractor's request.
- (c) the Customer holds the benefit of its insurance of the goods on trust for the Contractor and must pay to the Contractor the proceeds of insurance in the event the goods are lost, destroyed, or damaged.
- (d) the Customer must keep the goods separate from its goods and maintain the Contractor's labelling and packaging.
- (e) the Customer must not charge or otherwise grant an interest over the goods while they remain the Contractor's property.
- (f) the Customer must not convert, process, or otherwise commingle the goods but if the Customer does so, then it holds the commingled good on trust for the benefit of the Contractor and must sell or dispose of the commingled good to the Contractor, on the direction of the Contractor.
- (g) the Customer may sell or dispose of the goods only in the ordinary course of business in its capacity as agent for the Contractor and if the Customer sells or disposes of the goods then the Customer must hold the proceeds on trust for the Contractor and deliver up the proceeds to the Contractor on demand.
- (h) the Customer must hold the proceeds of sale of the goods on trust for the Contractor in a separate account with a bank to whom the Customer has not given security however failure to do so will not affect the Customer's obligation as trustee; and

- (i) the Contractor may without notice, enter any premises where it suspects the goods are and recover possession of the goods, notwithstanding that they may have been attached to other goods and not the property of the Contractor, and for that purpose the Customer irrevocably licences the Contractor to enter such premises and indemnifies the Contractor from and against all costs, claims, demands, or actions by any party arising from such action.
- 6.2 The Contractor is entitled to commence legal proceedings to recover any outstanding monies from the Customer regardless of ownership of the goods.
- 7 Risk and Insurance
- 7.1 The risk in goods and/or services passes to the Customer upon collection of the goods from the Contractor's premises, immediately upon dispatch from the Contractor to the Customer's nominated address or otherwise on the date of performance of the Services.
- 7.2 The Customer is liable for the insurance in relation to the goods and services and must maintain at its own cost an insurance policy of insurance with a reputable Australian insurer to cover all risks which may reasonably arise.
- 7.3 Notwithstanding the passing of risk, all goods delivered by the Contractor to the Customer remain the property of the Contractor until all goods supplied by the Contractor to the Customer have been paid for in full. If the goods are lost, damaged, or destroyed after delivery but prior to ownership passing to the Customer pursuant to clause 6 the Contractor is entitled to receive all insurance proceeds payable for the goods.
- 8 Delivery of goods and/or services
- 8.1 All goods and services must be paid for prior to delivery of the goods and services by the Contractor.
- 8.2 The Contractor does not represent that the goods or services will be available on that date and any date given for delivery is an estimate only and if the Contractor is unable to deliver the goods on that date, it shall not be liable for any loss (including consequential loss) for any failure or a delay in delivery. The Contractor is not liable for any amount payable by the Customer to a third party because of a failure or delay in delivery by the Contractor due to any cause whatsoever.
- 8.3 If the Customer has provided reasonable notice of its specific requirements, the Contractor shall make reasonable endeavours to meet those specific requirements and achieve delivery of the goods and/or services on or about that date. If the Contractor is unable to achieve delivery of the goods and services on that date, the Contractor will notify the Customer and give an estimate of time for completion.
- 8.4 The Customer must take delivery of the goods and/or services whenever the goods or services are tendered for delivery and if required by the Contractor, the Customer must be present at the agreed place and time. If not present, the Contractor, will not be responsible for any claims, costs or losses and may in its discretion charge the Customer for the Contractor's reasonable costs.
9. Warranties
- 9.1 To the extent permitted by law, the Contractor does not provide any warranty in the goods or services. If the manufacturer of any goods provides a warranty then to the extent that the rights in any manufacturer's warranties are required to be assigned to the Customer, the manufacturer's warranties are assigned, and title of those warranties passes with the goods. The Contractor is not liable to the extent that any manufacturer is liable under a manufacturer's warranty, unless required by law.
- 9.2 The Contractor expressly denies and excludes any warranties or conditions which would otherwise be implied to the maximum extent possible by law including but not limited to merchantable quality, suitability, fitness of purpose, quality, suitability, or otherwise. The Contractor acknowledges that these Terms do not exclude any statutory warranties which may be implied pursuant to the Competition and Consumer Act 2010 (Cth).
- 9.3 The Customer acknowledges and agrees that:
- (a) the Customer shall rely on its own knowledge and expertise with respect of the purpose of the goods and services and any advice or assistance given by or on behalf of the Contractor shall be accepted at the Customer's risk and shall not be deemed to have been given as an expert or adviser or be otherwise relied on by the Customer; and
- (b) the Contractor shall not be liable nor responsible for any failure to comply with any requirements of the Customer or any other person (whether relating to manufacture, design, fabrication, installation and/or any other particulars provided with respect to the intended use of any goods or otherwise) which are not precisely and accurately communicated in writing to the Contractor prior to agreement for supply of goods and/or services.
10. Defects
- 10.1 The Customer shall inspect the goods and/or services immediately upon delivery and carry out any tests which a prudent Customer would carry out and use their best endeavours to minimise loss and damage arising from any defect.
- 10.2 All claims for credit for damaged, defective, or short delivered goods or services must be notified to the Contractor immediately. The Customer shall give written notice to the Contractor of any alleged defect, damage, fault, irregularity, shortage of quantity, failure to comply with description or Quotation within 5 business days from the date of delivery and provide full particulars of the claim made.
- 10.3 The Contractor must be given reasonable opportunity to take samples, inspect, test the goods or services in respect of which the claim is made, otherwise the Customer shall not be entitled to any credit. Unless otherwise agreed, no return or request for credit will be approved until the Contractor by its representative has inspected the goods on which the credit is claimed and agrees that the goods are defective. Until this inspection, the Customer is responsible for maintaining proper care of the goods/services and if this does not occur, the Contractor reserves its rights not to accept the claim.

- 10.4 If the Customer does not make any claim pursuant to clause 10.2, the Contractor does not accept any claims and the Customer is deemed to have accepted the goods and services and the Customer is not entitled to reject the goods or services or claim any remedy (including but not limited to damages) against the Contractor.
- 10.5 Subject to the Competition and Consumer Act 2010 (Cth), the Contractor is not liable for any defect where the defect or damage was caused or partially caused by the Customer, the Customer has used the goods or services for a purpose other than as designed, the continuing use of the goods or services after the defect became apparent or if the defect or damage should have been apparent to a reasonably prudent user, failure by the Customer to follow any directions or instructions by the Contractor or by fair wear and tear, accident or any event of force majeure.
- 10.6 The Customer acknowledges and agrees that goods and services are custom made or otherwise specially ordered or designed for the Customer and not on the usual stock list, or otherwise altered or damaged by the Customer then any claim shall not be accepted by the Contractor.
11. Release and Indemnity
- 11.1 The Customer hereby releases and indemnifies and agrees to keep the Contractor indemnified from any and all costs, damages, liabilities, expenses or losses including indirect, consequential losses (including but not limited to loss of profit), that the Contractor may incur in relation to the Customer or any third party, where the cost, damage, liability, expense or loss is caused by or contributed to by the goods supplied or services performed, any defect or fault in workmanship or design or their use, a breach of these Terms or for any other reason whatsoever.
12. Limitation of Liability
- 12.1 The Customer agrees, to the fullest extent possible by law, in relation to any cost, damage, liability, expense or loss (including those contributed or cause by the Contractor's negligence or breach of any condition or warranty), if the Customer is not a consumer pursuant to the Competition and Consumer Act 2010 (Cth), to limit any claim made to the Contractor, in the Contractor's absolute discretion to:
- (a) the value of any express warranty provided by the Contractor to the Customer or any warranty to which the Customer is entitled.
 - (b) replacement, repair or rectification of the goods or services and/or the supply of equivalent goods.
 - (c) repay the purchase price if then payment has been received from the Customer; or
 - (d) payment of the cost of replacing, repairing, or acquiring equivalent goods or services.
- In no circumstances shall the Contractor be liable for any amount more than the Price.
- 12.2 If the Contractor is required to replace or remedy the goods or services pursuant to the Competition and Consumer Act 2010 (Cth) but cannot do so for any reason whatsoever, the Contractor may refund the Price, if the Price has been paid by the Customer.
- 12.3 The Customer specifically agrees that the Contractor is not responsible for any damages caused either to the goods supplied or as a result of the malfunction of the goods in the event that such goods are in any way adapted to a use to which are, they are not specifically intended, or the goods have added to or have been added to components which is not recommended or approved by the manufacturer or supplier of the goods.
- 12.4 The Contractor shall not be liable for any damages for personal injury or death, any damage to property and/or any contingent, consequential, direct, indirect, special, or punitive damages whether due to negligent act or omission of the Contractor or its employees or agents or otherwise and the Customer acknowledges this limitation of liability and agrees to limit any claim accordingly.
- 12.5 No other term, condition, agreement, warranty, representation and/or understanding whether express or implied, in any extending to, otherwise relating to or binding upon the Contractor other than these Terms is made or given by or on behalf of the Contractor.
- 12.6 Notwithstanding anything in this clause 12, a Customer shall not be entitled to make any claim upon the Contractor whatsoever if any amounts are outstanding from the Customer to the Contractor.
13. Intellectual Property Rights
- 13.1 The Customer acknowledges and agrees that it does not have any intellectual property rights in the goods and that unless otherwise stated, the intellectual property rights associated with the goods supplied are the property of the Contractor and the Contractor has the right to use the intellectual property in the goods including where the Contractor has developed or designed the goods for the Customer.
- 13.2 The Customer acknowledges that all designs or other specifications provided by it with respect to the goods will not cause the Contractor to infringe any intellectual property rights in provision of the goods and/or services and the Customer indemnifies the Contractor against any action taken by a third party against the Contractor with respect to any infringement relating to such design or specifications.
- 13.3 If the Customer requires any manuals or drawings to enable it is using the goods or services or otherwise as required by law, the Contractor will provide such manuals as a hard copy or electronic form, as the Customer may reasonably require, at the Contractor's cost. If the Customer requires additional copies or replacement copies, the Contractor may charge an additional fee for the provision of such additional or replacement manuals or drawings.
14. Security
- 14.1 In order to secure the performance by the Customer of its obligations, the Customer, and where the Customer is unincorporated each proprietor of the Customer, hereby charges with payment of the moneys and compliance with all obligations owed by the

Customer to the Contractor all beneficial interests (freehold and leasehold) in real and personal property held now or in the future by the Customer or proprietor.

- 14.2 The Customer, and where applicable, each proprietor agrees that if demand is made upon it, him or her by the Contractor, the Customer or, if applicable, that proprietor will immediately execute a consent to caveat, or a caveat or mortgage, as required by the Contractor to secure the obligations pursuant to this clause 14. The Customer or, if applicable, each proprietor, irrevocably and by way of security appoints the Contractor and any director, credit manager or solicitor engaged by the Contractor to be its, his or her true and lawful attorney to give effect to this clause 14 including but not limited to execute and register all documents.
- 14.3 The Customer indemnifies the Contractor in relation to all its costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Contractor's right pursuant to this clause 14.

15. PPSA

- 15.1 Defined terms in this clause 15 have the same meaning as given to them in the Personal Property Securities Act 2009 (Cth) ("PPSA").
- 15.2 The Contractor and the Customer acknowledge that this agreement constitutes a Security Agreement and constitutes a Purchase Money Security Interest (PMSI) in favour of the Contractor over the goods supplied or to be supplied to the Customer, as Grantor, pursuant to these Terms.
- 15.3 The Contractor and the Customer acknowledge that the Contractor, as Secured Party, is entitled to register its interest in the goods supplied or to be supplied to Customer, as Grantor, under this agreement on the Personal Properties Securities Register as collateral by registering a financing statement or financing change statement.
- 15.4 The Customer expressly waives its right to receive notification of or a copy of any verification statement with respect to the registration of a financing statement or a financing change statement relating to a security interest granted by the Customer to the Contractor.
- 15.5 The Customer agrees to indemnify the Contractor on demand for all costs and expenses, including legal costs and expenses on a solicitor and client basis, associated with the registration, amendment or discharge of any financing statement registered by or on behalf of the Contractor or the enforcement or attempted enforcement of any security interest granted to the Contractor by the Customer.
- 15.6 If the Customer is in default of its obligations and the Contractor takes possession of any goods pursuant to its security interest, the Customer remains liable for the difference between the market value of the goods at the time they are sold by the Contractor and the amount of the Customer's obligations for which it is in default.
- 15.7 The Customer agrees and undertakes to immediately notify the Contractor of any change to its name, address or personal details and authorises the Contractor to register a financing change statement without prior consent of the Customer.
- 15.8 The Customer agrees and undertakes not to agree, encourage or in any way allow another person or entity to register a financing statement without the prior written consent of the Contractor and the Customer shall provide written notice to the Contractor upon becoming aware that of any other person or entity are taking steps to register a security interest with respect to the Customer.
- 15.9 The Customer agrees that to the maximum extent permitted by law, sections 130, 142 and 143 of the PPSA will not apply.
- 15.10 The Customer agrees, to the extent possible under law permitted by law to waive the following rights under the PPSA: receipt of a verification statement pursuant to section 157 and a statement of account where there is no disposal pursuant to section 130(4) or pursuant to section 132 where there is a disposal; to recover any proceeds pursuant to section 140; to object to the purchase of the collateral by the secured party pursuant to section 129; to receive notice of an intention to seize collateral pursuant to section 123; to receive notice of disposal of collateral pursuant to section 130; to receive notice of retention of Collateral pursuant to section 134 or to object to that notice pursuant to section 137; to redeem Collateral pursuant to section 142; to reinstate a security agreement pursuant to section 143; to receive a notice of removal of accession under section 95; and any other right in favour of the Customer that can be lawfully contracted out of pursuant to section 115 of the PPSA which shall not apply to these Terms or any security.

16. Statement of Debt

- 16.1 A certificate signed by a director, secretary, financial controller, credit manager or any other authorised person of the Contractor shall be prima facie evidence of the indebtedness of the Customer to the Contractor.

17. Privacy and Credit Information

- 17.1 The Customer irrevocably authorises the Contractor to make enquiries, exchange, collect and use a Customer's personal information including credit information and information relating to property, business or other solvency matter from time to time as the Contractor may deem necessary which may include enquiries with persons nominated as trade references, financiers, any other credit provider, credit reporting bodies, any government department and/or any similar or other organisation (Information Provider) for the following purposes:

- (a) obtaining information on the credit position of the Customer.

- (b) investigating the credit worthiness of the Customer in relation to the credit to be provided by the Contractor; marketing purposes (unless the Customer has notified the Contractor it wishes to opt out of direct marketing);
 - (c) to allow the Contractor to provide a credit facility for the supply of goods and/or services to the Customer; to notify the credit provider of a default by the Customer.
 - (d) and to a credit reporting body to obtain a credit report or to permit a credit reporting body to maintain or update the Customer's credit file.
- 17.2 The Customer acknowledges that the information exchanged under clause 17.1 may include any information in relation to the Customer's creditworthiness or credit history.
- 17.3 The Customer consent and irrevocably authorises the Information Provider to disclose any information about the Customer in their possession to the Contractor; the Contractor may use any information which it holds for the purposes listed in clause 17.1; and may disclose any of the Customers' personal information to any interested person (including overseas third parties) for any purpose listed in clause 17.1, to the extent permitted by the Privacy Act 1988 (Cth) and the Australian National Privacy Principles (if applicable).
- 17.4 To the maximum extent permitted by law, the Customer agrees (unless the Customer otherwise withdraws consent), to waive all rights under the Privacy Act 1988 (Cth).
18. Occupational Health and Safety
- 18.1 The Customer warrants to the Contractor:
- (a) it is authorised to occupy the property on which the services are to be conducted (property) or otherwise has authority from the owner of the property for the services to be performed.
 - (b) ensure that the property is safe, and any facilities provided by the Customer for the purposes of permitting the services to be performed are safe. The Customer must provide the Contractor access to a reasonable quantity of portable water for drinking and hygiene purposes; and
 - (c) the Customer has free and unimpeded access to the site in which the services are to take place and the Customer will do all things necessary to ensure that the Contractor is not delayed by matters within the control of the Customer. The Customer acknowledges and agrees that if the services are delayed for reasons not in the control of the Contractor, then the Contractor may impose stand down charges and the Customer acknowledges and agrees that it will be liable for such additional charges.
- 18.2 The Contractor will, all at times during performance of the services, use safe and proper procedure. The Contractor has current workers compensation insurance in place and will provide evidence of the currency of such insurance to the Customer upon written notice.
19. Default
- 19.1 Without prejudice to any other remedies available to the Contractor, if the Customer becomes insolvent or appoints an administrator, receiver, receiver and manager, liquidator or trustee in bankruptcy or is otherwise in breach of any these Terms (including any term for payment), all monies become immediately due and owing to the Contractor and the Contractor may immediately:
- (a) terminate or suspend supply of goods and/or services.
 - (b) retain all monies paid and/or take immediate possession of goods which have not been paid for.
 - (c) cease all future deliveries.
 - (d) cancel all or any part of any order unfilled; and/or
 - (e) recover from the Customer any loss of profits arising from the Customer's default.
- 19.2 If the Contractor exercises its rights pursuant to clause 18.1, it is not liable to the Customer for any consequential loss or damages suffered by the Customer.
20. Customer Restructure
- 20.1 The Customer shall provide written notice to the Contractor of any change to its structure or management including change of director, shareholder, partnership, trusteeship or management or its details (including changes to its name or address). If the Customer fails to comply then the Customer agrees to indemnify the Contractor from any resulting loss.
21. Miscellaneous
- 21.1 Force Majeure. The Contractor shall not be or be deemed to be in default or breach of any agreement or these Terms because of any event of force majeure. Force Majeure shall include national emergency, war, prohibitive government regulations or any other cause beyond the reasonable control of the Contractor including trade disputes which means that the goods and/or services cannot or are delayed in being provided by the Contractor to the Customer.

- 21.2 Notices. A notice, demand, waiver, approval, or other document given pursuant to these Terms must be in writing and may be given to the recipient by way of personal service, prepaid post, facsimile transmission, or email transmission at the address of the party as provided from time to time.
- 21.3 Severance. If any provision or part of a provision of these Terms cannot be given effect or is declared void for any reason, the provision or part which cannot be given effect shall be severed and the remaining provisions shall remain valid, binding, and enforceable on the parties.
- 21.4 Waiver. No rights under these Terms will be waived unless agreed in writing and signed by the Contractor. The Contractor does not waive a right if an extension or other forbearance is given to the Customer. No waiver of any provision of these Terms shall be construed as a continuing waiver of the provision. A waiver by the Contractor of any matter does not prejudice its rights in respect of any matter. Any non-exercise or partial exercise of or any delay in exercising any right or remedy does not constitute a waiver of that right or remedy.
- 21.5 Variation of Terms. All goods and/or services rendered by the Contractor are supplied on these Terms, as amended from time to time, by the Contractor in its absolute discretion or otherwise agreed by the Contractor in writing. The Customer agrees it is deemed to have notice of change to these terms and be bound by such variations as they appear on the Contractor's website from time to time, whether the Customer has actual notice of any such variation.
- 21.6 Assignment. The Customer is not entitled to assign the benefits or obligations under these Terms to any entity without the Contractor's prior written consent, which may be given in the Contractor's absolute discretion. The Contractor may assign all or any part of the benefits and obligations under these Terms without the Customer's consent which may include using subcontractors to perform the services.
- 21.7 Jurisdiction. The provisions of these Terms and any agreement for supply of goods and service between the Contractor and the Customer shall be governed by the laws of the state of Queensland and each party irrevocably submits to the non-exclusive jurisdiction of the courts of the said state.
- 21.8 Entire Agreement. This agreement supersedes all previous agreements, discussions and representations between the Contractor and the Customer and constitute the entire agreement with respect to the agreement for provision of goods and/or services between the Contractor and the Customer. All prior correspondence, negotiations or representations do not bind either party and either party is not entitled to rely upon them.
- 21.9 Counterparts. This agreement may be signed in any number of counterparts and each counterpart shall together constitute one agreement. This agreement may be executed and delivered by facsimile, electronically or by way of electronic signature and the receiving party may rely upon same as if it was an original document or signature.