Terms and Conditions

Provision of further information
28. A document containing a warranty with any reasonable written requests by the Supplier to provide further information for the purpose of assessing the Applicant's creditworthiness, including an updated credit application.

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

Trustee capacity
30. If the Applicant is the trustee of a trust (whether disclosed to the Supplier or not), the Applicant warrants that all of its directors have signed this agreement and that all of its directors may be required to enter into a guarantee and indemnity with the Supplier in respect of the Corporation's obligations to the Supplier.

Cancellation of terms of credit
31. Where the Supplier exercises any power to enter the Applicant's premises under clause 36, the Supplier will be entitled to sell the goods in the ordinary course of its business, but will be entitled to withhold payment in any amount on notice to the Applicant demanding payment.

Jurisdiction
32. The Supplier may take action against the Applicant in any state or territory of Australia, even though the Applicant may not have defaulted in carrying out its obligations hereunder.

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

Formation of contract
13. Quotations made by the Supplier will not be construed as an offer or obligation to supply in accordance with the quotation. The Supplier reserves the right to accept or reject, at its discretion, any offer to purchase received by it upon provision of written reasons to the Applicant.

Retention of title
10. If the goods do not pass to the Applicant until the Applicant has made payment in full for the goods and, further, until the Applicant has made payment in full of all other money owing by the Applicant to the Supplier (whether in respect of payment of overdue contract or on any other account with the Supplier), the Supplier may retain title in the goods until full payment has been made.

Indemnity
26. The Applicant agrees to indemnify the Supplier and keep the Supplier indemnified against any claim that arises out of the goods and services supplied under this agreement. This indemnity includes any legal fees and expenses the Supplier incurs in order to enforce its rights, on an indemnity basis.

Security/charges
8. The Applicant charges in favour of the Supplier all of its estate and interest in any real property mortgaged, charged, pledged or other security interest (including a security interest as defined in the Personal Property Securities Act 2009 (PPSA)) in the goods and all proceeds thereof, to secure any debt and all other obligations of the Applicant to the Supplier.

Interest rates
39. Subject to clauses 40 and 41, payments by, or on behalf of, the Applicant will be applied by the Supplier as follows:

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

Taxes and duty
45. The Applicant must pay GST on any taxable supply made by the Supplier to the Applicant under this agreement. The payment of GST is in addition to any other consideration payable by the Applicant for a taxable supply.

Interest rates
46. The interest rate on any outstanding debits is a fixed rate of 10 per cent per annum.

Set-off
47. All payments required to be made by the Applicant under this agreement will be made free of deduction, set-off, or any other claim, unless otherwise agreed to by the Supplier, and will be applied to the balance of the relevant account (including a waiver of any default under this agreement).
49. In relation to the supply of goods, the Supplier's liability is limited to:
   (a) replacing the goods or supplying similar goods;
   (b) repairing the goods;
   (c) providing the cost for replacing the goods or for acquiring equivalent goods; and
   (d) providing the cost for having the goods repaired.
50. In relation to the supply of services, the Supplier's liability is limited to:
   (a) supplying the service again; or
   (b) providing for the cost of having the services supplied again.

51. The Supplier is not liable for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, loss of a right or any other indirect loss suffered by the Applicant as a result of the goods and/or services supplied under this agreement.
52. The Applicant will, at the request of the Supplier, execute documents and do such further and other acts as may be required by the Supplier to register and/or maintain a security interest under the PPSA.
53. The Applicant agrees to accept service of any document required to be served, including any notice under this agreement or the PPSA or any originating process, by prepaid post at any address nominated in this application or any other address later notified to the Supplier by the Applicant or the Supplier's authorised representative.
54. The Applicant further agrees that where we have rights in addition to those under part 4 of the Act to the supply of goods, those rights will continue to apply.
55. The Applicant irrevocably grants to the Supplier the right to enter upon the Applicant's property or premises, with notice, and without being in any way liable to the Applicant or to any third party, if the Supplier has cause to exercise any of their rights under section 123 and/or 128 of the PPSA, and the Applicant shall reasonably indemnify the Supplier from any claims made by any third party as a result of such exercise.
56. Nothing in this agreement shall be read or applied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any goods and/or services pursuant to this agreement of all or any of the provisions the Competition and Consumer Act 2010 or any relevant State or Federal Legislation which by law cannot be excluded, restricted or modified.

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

Variation
59. If the Applicant agrees that these terms and conditions may be varied, added to, or amended by an authorised officer of the Supplier at any time by written notice to the Applicant. The Applicant will be provided with fourteen (14) days to accept the variation/s, failing which the provisions may be varied by the Supplier.
60. Any proposed variation to these terms and conditions by the Applicant must be requested in writing. The Supplier may refuse any such request without providing reasons either orally or in writing.
61. Variations requested by the Applicant will only be binding upon the Supplier if they are subsequently in writing.

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

ACCOUNT APPROVED FOR CASH ON DELIVERY / 7 DAYS / 14 DAYS / 30 DAYS
(supplier to nominate)

PRIVACY STATEMENT
74. This privacy statement encompasses consents, notifications and disclosures under or in relation to the Privacy Act 1988 as amended by the Privacy Amendment (Enhancing Privacy Protection) Act 2012 ("Act").
75. The terms of this statement operate concurrently with any pre-existing privacy statement, authorisation or notification, whether contained in our credit application, terms and conditions of trade or otherwise, save to the extent of any inconsistency in which case these terms of this privacy statement shall prevail.
76. For the purpose of this statement the terms "personal information", "sensitive information", "credit eligibility information", "credit information", "commercial credit purpose", "credit guarantee purpose", "consumer credit purpose", "credit reporting body", "credit provider", "credit reporting information", "reporting information", "amount owing", "level of delinquency", "severely delinquent", "delinquent", "information" may be used for, what the Supplier may disclose and the Applicant's and/or Guarantor(s) right to the use of their information.

77. The Supplier may collect personal information about the Applicant and/or Guarantor(s) for the Supplier's primary purposes which include the assessment of a credit application, reviewing existing credit terms, assessing credit worthiness, collecting overdue payments, assessing credit guarantees (current and prospective), internal management purposes, marketing, sales and business development purposes and direct marketing.
78. The Applicant and/or Guarantor(s) consent to the Supplier collecting, using and disclosing personal information (including sensitive information) for both their primary purposes specified herein and purposes other than the primary purposes, including the purpose of direct marketing.
79. The Supplier may collect, and may already have collected, Information from the Applicant and/or Guarantor(s), other credit providers, credit reporting bodies and other third parties for the purposes of its functions and activities including, but not limited to, credit, sales, marketing and administration. If the Information was not collected by the Supplier it may restrict or impede upon the Supplier trading with, extending credit to, continuing to extend credit to or extending further credit to the Applicant and/or Guarantor(s) or their related bodies corporate.
80. The Applicant and/or Guarantor(s) consent to the Supplier obtaining and making disclosure of Information about the Applicant and/or Guarantor(s) from and to a credit reporting body and/or another credit provider for a commercial credit related purpose and/or a credit guarantee related purpose and/or any related purpose. The Supplier notifies the Applicant and/or Guarantor(s) that it may use and/or disclose credit eligibility information under section 211G of the Act.
81. The Supplier may provide personal information about the Applicant and/or Guarantor(s) to any or all of the credit reporting bodies nominated below. The Supplier intends to disclose default information to any or all of the credit reporting bodies listed below. The Applicant and/or Guarantor(s) consent to such disclosure. The Supplier's credit reporting policy contains a statement of notifiable matters in accordance with s212 of the Act and items 4.1 and 4.2 of the Credit Reporting Code in respect of disclosure to credit reporting bodies including what the Supplier may disclose and the Applicant’s and/or Guarantor(s) right to limitations to the use of their information.
82. The Supplier may disclose Information to, and about them and the Applicant and/or Guarantor(s) hereby acknowledge that they consent to the disclosure of such information to the Supplier's employees, subsidiaries, employees, agents and related bodies corporate, past, present or prospective credit providers of the Applicant and/or Guarantor(s) or their related bodies corporate, including for the purpose of that person considering whether to offer to act as guarantor or offer security for that credit, and/or making payments in respect of that credit, and/or exercising remedies in respect of such credit.
83. By reason of the Applicant’s and/or Guarantor(s) consent to the disclosure to overseas recipients hereunder, APP 8.1 will not apply to the Supplier’s dealing with the Applicant’s and/or Guarantor’s information.
84. A full copy of the Supplier’s privacy policy and credit reporting policy can be obtained from the Supplier’s website or by making a request in writing directed to the Supplier’s privacy officer. The Supplier’s privacy policy and credit reporting policy contain information about how to access and seek correction of Information, or how to complain about a breach of the Act, APP, code(s) and how the Supplier will deal with any such complaint.
85. The Applicant and/or Guarantor(s) will be deemed to have acknowledged and accepted the terms of this privacy statement by either signing and returning this statement, failing to provide written notification to the Supplier within 14 days of receipt of this statement that these terms are not accepted, continuing to trade with the Supplier after receipt of this statement or, if the Applicant and/or Guarantor(s) are directors or guarantors of a customer, by not taking steps to prevent the customer from continuing to trade with the Supplier after receipt of this statement.

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

Building & Construction Industry Payments Act
87. The following provisions apply to the Building and Construction Industry Payments Act 2004 (Qld) (BICIPA).
88. The parties acknowledge that their rights and obligations under this agreement are subject to the provisions of the BICIPA to the extent that they apply, and where there is any inconsistency between this agreement and the BICIPA, the BICIPA shall prevail to the extent necessary to avoid the inconsistency.
89. The Supplier is entitled to issue, every 7 days from the date that this agreement is executed, a payment claim for construction work carried out or undertaken to be carried out, or related goods and services supplied or undertaken to be supplied, for the purposes of the BICIPA.
90. A payment claim which is issued by the Supplier to the Applicant earlier than the date provided for in clause 69 above will be deemed to have been made on the next available reference date.
91. Where the Supplier issues more than one payment claim within the period identified in clause 69 above, the claims will be cumulatively taken as constituting a single claim issued on the next available reference date.
92. The Supplier’s entitlement to any payment claim for a progress payment will continue to accrue until such time as the Supplier receives full payment of all outstanding amounts from the Applicant under this agreement or as otherwise owing by the Applicant to the Supplier.
93. The Applicant will be required to issue a payment schedule to the Supplier, in response to either a standard or complex payment claim, within 5 business days after receipt of the Supplier’s payment claim.

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