

TERMS & CONDITIONS OF TRADE

1. INTERPRETATION

In these Terms and Conditions, the following terms shall have the meaning given below, unless the context indicates otherwise:

- 1.1. "Customer" means the person or entity acquiring Goods and/or Services and/or Services from the Supplier who may also be named as the "Applicant" pursuant to any Application for Credit Account.
- 1.2. "Supplier" means, Vic Diesel Pty Ltd trading as Vic Wide Mobile Diesel Repairs ABN 27 152 588 577 its successors and assigns
- 1.3. "Agreement" means any agreement for the supply of Goods and/or Services between the Supplier (and in relation to each supply, if more than one), and which shall be deemed to incorporate these Terms and Conditions.
- 1.4. "Goods" includes without limitation automotive parts and accessories and any associated Labour supplied by the Seller.
- 1.5. "PPS Act" means the *Personal Property Securities Act 2009* (Cth) as amended from time to time.
- 1.6. "Price" means the cost of the Goods and/or Services as agreed between the Supplier and the Customer, subject to Clause 5 of these Terms and Conditions.
- 1.7. "Application for Credit Account" means an application by a Customer for Credit with the Supplier for the supply of Goods and/or Services on credit, in accordance with these Terms and Conditions.
- 1.8. "Labour" means the fitting or installation service provided by the Supplier (or such third party as may be authorised by the Supplier) in relation to the Goods purchased under an Agreement.
- 1.9. "Services" means any service performed by the Supplier and includes without limitation the performance of automotive and/or engineering services, repairs, maintenance, auditing and Labour.
- 1.10. Words importing the singular number shall be deemed to include the plural and vice versa. Words importing the male gender shall be deemed to include the female and neuter gender and vice versa.
- 1.11. A reference to a person includes corporation, partnership and unincorporated body.

2. GENERAL

- 2.1. These Terms and Conditions apply to the supply of all Goods and/or Services by the Supplier to the Customer

- 2.2. These Terms and Conditions are effective as at the date of publication (April 2017) and may be amended from time to time by the Supplier by reasonable notice in writing or as otherwise required by law.
- 2.3. To the extent permitted by law, these Terms and Conditions:
 - 2.3.1. embody the entire understanding of the parties and constitutes the entire terms agreed by the parties;
 - 2.3.2. supersede any previous agreements, understandings, negotiations and representations of the parties; and
 - 2.3.3. constitute a legally binding agreement between the Supplier and Customer for the supply and fitting /installation of the Goods and/or Services.

3. ORDERS, DELIVERY & LABOUR

- 3.1. Until such time as the Supplier accepts an order submitted by the Customer, it shall not be obliged to supply the Customer the Goods and/or Services so ordered, PROVIDED ALWAYS that at any time the Customer defaults in respect of its payment obligations hereunder, the Supplier may cancel or suspend any incomplete order that has been accepted by it without being liable to the Customer in any way whatsoever.
- 3.2. Any order placed by the Customer based on a quotation (offer) by the Supplier will be deemed unconditional acceptance of the offer constituted by the quotation and shall be subject to these Terms and Conditions.
- 3.3. The costs of Labour are in addition to the Price of the Goods.
- 3.4. The Supplier has the right to deliver by instalments and each instalment shall be deemed to be sold under a separate Agreement. Failure by the Supplier to deliver any instalment will automatically be deemed to be a back order and will not entitle the Customer to cancel the balance of the order. In the event of the Customer failing to take delivery of any instalment, the Supplier may elect to cancel the balance of the order.
- 3.5. The Supplier is entitled to charge and the Customer must pay the Supplier's costs and expenses associated with handling and/or holding any products once ready for delivery and the Supplier's costs and expenses of any frustrated delivery.
- 3.6. Delivery of the Goods and/or Services shall be deemed to have occurred on the happening of the first of the following events:
 - 3.6.1. upon fitting or installation of the Goods and/or performance of the Services by the Supplier to the Customer's vehicle or any third party authorised to undertake such fitting or installation on behalf of the Supplier; or

- 3.6.2. upon collection of the Goods from the Supplier's premises by a person authorised by the Customer or a person who holds himself/herself out to have such authority; or
 - 3.6.3. upon delivery to the Customer's premises or nominated address for delivery; or
 - 3.6.4. upon collection by or delivery to a carrier nominated by the Customer.
- 3.7. The Goods and/or Services shall be at the risk of the Customer upon delivery to the Customer and the Supplier's responsibility for delivery will cease at the kerbside of the delivery address. Should it be necessary for the Supplier's vehicle to cross the footpath or enter upon private property in the course of effecting delivery of the Goods and/or Services, it is the Customer's responsibility to provide safe and adequate access and the Customer will be liable for any damage to public or private property which may result and must, at its cost, insure the same in the name of the Supplier against such risks as a prudent owner of Goods and/or Services would insure and for their full insurable value. The Customer must indemnify and hold the Supplier harmless from, against or in respect of any claims for loss, damage or injury to person or property arising from the Supplier being required to cross any footpath, nature strip or enter into or upon any private property in undertaking delivery of the Goods and/or Services.
- 3.8. The Supplier reserves the right to cancel the Customer's order for Goods and/or Services in the event that the Supplier cannot supply the Goods and/or Services at the agreed Price.

4. DISPATCH OF GOODS AND/OR SERVICES ORDERED ONLINE

Notwithstanding anything contained in these Terms and Conditions, the following conditions apply to orders submitted by a Customer through the Supplier's website:

- 4.1. Upon submission of an online order, the Customer will be required to immediately complete payment for such order using the Supplier's payment gateway.
- 4.2. Upon the Supplier receiving confirmation of receipt of payment from the Supplier's payment gateway, the Customer's order will be assessed and accepted or rejected by the Supplier in accordance with these Terms and Conditions within a period of one (1) business day.
- 4.3. Once an order has been submitted by a Customer, the Customer cannot request cancellation of the order.
- 4.4. Goods and/or Services despatched from the Supplier are not insured and are at the risk of the Customer from the time of leaving the Supplier's premises.

- 4.5. The Supplier reserves the right to cancel an order where the Goods and/or Services have been incorrectly listed on the Supplier's website in any way.
- 4.6. The Supplier may, subject to Clause 10, accept return of undamaged Goods and/or Services for exchange in a period of seven (7) days from the date of delivery.
- 4.7. Any credit issued to a Customer holding a trade account in respect of the return Goods and/or Services purchased online or the cancellation of an online order for Goods and/or Services shall be issued as a store credit to the Customer's online account with the Supplier.

5. PRICE AND PAYMENT

- 5.1. The Price of the Goods and/or Services shall be as indicated on a quotation or on the invoices provided by the Supplier to the Customer in relation to the Goods and/or Services supplied.
- 5.2. Invoices shall be deemed to be accepted by the Customer unless the Supplier is notified in writing within seven (7) working days from the date of invoice of any dispute relating to the Goods and/or Services supplied or the invoiced amount.
- 5.3. The Supplier reserves the right to change the Price at the Supplier's discretion by notice to the Customer.
- 5.4. At the Supplier's sole discretion a deposit on Goods and/or Services may be required prior to delivery/collection/completion.
- 5.5. At the Supplier's sole discretion:
 - 5.5.1. payment shall be due prior to delivery of the Goods and/or performance of the Services; or
 - 5.5.2. payment shall be due on delivery of the Goods and/or performance of the Services; or
 - 5.5.3. payment for approved Customers shall be due fourteen days (14) from the date of the Supplier's statement, ("the Due Date").
- 5.6. Payment is to be by cash, personal, business or bank cheque, direct credit, electronic funds transfer into the Supplier's nominated bank account, credit card (a surcharge of 3% on credit cards may apply) or direct debit authority from the Customer's nominated bank account to the Supplier's nominated bank account.
- 5.7. Any payments tendered by the Customer to the Supplier shall be applied as follows:
 - 5.7.1. first, to reimburse the Supplier for any collection fees or commissions, administrative costs, out of pocket expenses and legal costs referred to in Clause 12.6.2;
 - 5.7.2. secondly, towards any credit charges debited or chargeable to the Customer's account in accordance with Clause 12.6.1;

- 5.7.3. thirdly, in payment for the Goods and/or Services purchased by the Customer (such payments being applied in the order of the age of such purchase commencing with the oldest purchases).
- 5.8. If any of the events set out in Clauses 5.8.1 to 5.8.4 occur, the Supplier may at its option cancel or suspend any Agreement for the sale or supply of the Goods and/or Services entered into between the Supplier and the Customer without notice to the Customer and without prejudice to any other action or remedy which the Supplier has or might otherwise have had. All moneys then owing and outstanding to the Supplier on any account whatsoever and irrespective of whether the Due Date on any invoice has occurred or passed shall become immediately due and payable:
- 5.8.1. the Customer makes default in any payments or is unable or states that it is unable to pay its debts as and when they fall due;
 - 5.8.2. the Customer, being an individual, commits an act of bankruptcy or has a controller or trustee appointed in respect of the Customer's estate or any part of the Customer's property or assets;
 - 5.8.3. the Customer, being a company, passes a resolution for its winding up or enters into liquidation or has an application for winding up filed against it;
 - 5.8.4. a receiver, receiver and manager, controller or voluntary administrator is appointed over any part of the property or assets of the Customer;
 - 5.8.5. the Customer experiences any analogous event having a substantially similar effect to any of the events specified above.
- 5.9. Notwithstanding Clause 5.8 above, the Supplier may at all times in its sole and unfettered discretion and without being under any duty or obligation to assign reasons therefore review, alter or terminate the Customer's credit limit or payment terms without notice. Without limiting the generality of the foregoing, the decision of the Supplier shall be final and the Supplier accepts no liability or responsibility for any loss, howsoever arising, incurred by the Customer due to the operation of this Clause.

6. PAYMENT FOR GOODS AND/OR SERVICES ONLINE

- 6.1. In respect of online orders, the Supplier requires that payment for Goods and/or Services ordered by a Customer be made at the time of submitting the order online, via the Supplier's nominated payment gateway.
- 6.2. displayed on the Supplier's website unless otherwise notified by the Supplier to the Customer.
- 6.3. In submitting an online order, the Customer agrees to accept the terms of the Supplier's payment gateway provider.
- 6.4. The Supplier shall not be liable for any loss or damage suffered by the Customer in respect of the Customer's use of the payment gateway.

7. CREDIT ACCOUNT

- 7.1. The Supplier may, at its absolute discretion, provide the Customer with Goods and/or Services on credit, subject to these Terms and Conditions, and the Customer submitting to the Supplier an Application for a Credit Account.
- 7.2. The grant of any credit facility and/or the nomination of any credit limit is an indication only of the Supplier's intention at that time and the Supplier may vary, reduce or withdraw any credit facility at any time at its discretion and without any liability to the Customer or any other person or entity.
- 7.3. The granting of credit to the Customer shall be subject to these Terms and Conditions and any terms and conditions as specified in the Application for a Credit Account.
- 7.4. The Customer agrees to pay on demand all sums owing in connection with this credit facility in the event the credit facility is withdrawn. The Customer acknowledges that the Supplier may make additional periodic credit checks to ensure the Customer remains credit worthy.
- 7.5. The Supplier may alter or vary the terms of credit applicable to the Customer by notice in writing.

- 7.6. The Supplier may, in its absolute discretion, elect in respect of a trade Customer who is approved for a credit facility, to credit that Customer's online store account with an amount determined by the Supplier based on the available level of credit available to the Customer, to enable the Customer to submit online orders without the necessity for payment at the time of placing the online order, on the condition that any Goods and/or Services ordered by the Customer online using such credits shall be added to the Customer's trade account and shall be payable by the Customer in accordance with these Terms and Conditions and the terms and conditions of the Application for a Credit Account, as varied by the Supplier from time to time.

8. GST

- 8.1. Any consideration to be paid or provided for a supply of Goods and/or Services, including the Price, unless specifically described as GST Exclusive, includes an amount on account of GST calculated in accordance with A New Tax System (Goods and/or Services and Services Tax) Act 1999 (Cth).
- 8.2. The Supplier will provide a tax invoice in respect of Goods and/or Services supplied to which GST attaches.

9. CANCELLATION

In the event the Customer cancels delivery of Goods and/or Services, the Supplier shall be entitled to retain any deposit paid by the Customer, and the Customer shall be liable for any loss incurred by the Supplier, (including, but not limited to, any loss of profits) up to the time of cancellation.

10. RETURN OF GOODS AND/OR SERVICES

The Supplier may, accept the return of Goods and/or Services by the Customer on the following conditions:

- 10.1. The Customer makes arrangements with the Supplier for the return of the Goods and/or Services;
- 10.2. The Customer organises delivery of the Goods and/or Services to the Supplier's nominated address, at the Customer's cost;
- 10.3. Only unused, packaged Goods and/or Services which have been agreed to by the Supplier may be returned;
- 10.4. The Supplier, upon receipt of the Goods and/or Services shall inspect the Goods and/or Services and credit to the Customer's account an amount determined in accordance with Clause 10.3;

- 10.5. The Supplier will issue any applicable refund or credit to a Customer by way of a store credit, unless otherwise determined by the Supplier in its absolute discretion.
- 10.6. Any damage to the Goods and/or Services sustained in delivery or during fitting/installation shall be at the expense of the Customer;
- 10.7. In the event that the Goods and/or Services returned by the Customer are not as described by the Customer or do not meet the return policy of the Supplier, the Supplier may elect to return the Goods and/or Services to the Customer at the Customer's expense or should the Customer refuse to take delivery of the Goods and/or Services, the Supplier may retain the Goods and/or Services without the issue of a refund or credit.

11. CLAIMS

- 11.1. The Supplier shall not be obligated to recognise nor shall it be responsible in law or equity for any credit claims pertaining to short delivery or claims pertaining to damaged Goods and/or Services unless the Customer has within seven (7) of delivery of the Goods and/or Services examined the Goods and/or Services for defects and shall have given written notice to the Supplier of any defects within seven (7) days of delivery. If the Customer does not notify the Supplier within seven (7) days of delivery the Customer shall be deemed to have accepted the Goods and/or Services.
- 11.2. Unless the pack lot is returned to the Supplier in its entirety, the Supplier will not accept refunds or exchanges on pack lots.
- 11.3. Goods and/or Services modified to a specified requirement pursuant to any order placed by the Customer will not be accepted for return or refund.
- 11.4. Should the Customer consider that it has any claim (other than claims of the nature referred to in Clause 11.1 hereof) against the Supplier which, having regard to these Terms and Conditions of sale, it is entitled to make, it shall:
 - 11.4.1. immediately upon becoming aware of the circumstances giving rise to such a claim, notify the Supplier in writing of the nature of the claim;
 - 11.4.2. allow the Supplier, its servants or agents, full and free access to the Goods and/or Services the subject matter of the claim (or the place where the Goods and/or Services have been applied or used) for the purpose of conducting such tests and examinations as Supplier may in its absolute discretion consider necessary to determine whether or not the claim is justified.

- 11.5. The Supplier reserves the right to charge a 20% restocking fee to the Customer in respect of all Goods and/or Services returned to its premises for credit. Written authorisation must be obtained by the Customer from the Supplier before any stock is returned.

12. DEFAULT

If the Customer fails to pay for the Goods and/or Services supplied to it by the Due Date, purchases Goods and/or Services so as to extend its indebtedness to the Supplier beyond the Credit Limit, dies, or becomes of unsound mind or permanently disabled or defaults in or breaches any term contained in these Terms and Conditions ("Default Event") then:

- 12.1. the Customer agrees that a certificate signed by an officer of the Supplier identifying Goods and/or Services as unpaid shall be conclusive evidence that the Goods and/or Services have not been paid for;
- 12.2. the whole of the sum then owing by the Customer to the Supplier for all Goods and/or Services supplied by the Supplier to the Customer shall immediately become due and payable and the Customer shall not hereafter be entitled to purchase Goods and/or Services on credit from the Supplier unless the Supplier has agreed to same in writing, in which case, unless a contrary intention is shown in such agreement, the payment obligations contained herein shall apply;
- 12.3. the Supplier is and will be entitled at any time to demand the return of the Goods and/or Services, to retake possession of the Goods and/or Services and to recover the deficiency on resale plus cost of repossession from the Customer and the Customer must do all things necessary to immediately permit the Supplier without notice and without liability to the Supplier, to enter and access any premises occupied by the Customer in order to search for, locate, identify, retrieve and remove those Goods and/or Services to which the Supplier has title;
- 12.4. the Supplier shall be entitled to enforce any Security Interest it may hold in relation to the Goods and/or Services, the Customer or the Guarantor, in accordance with the PPS Act and any other rights available to the Supplier by common law, or statute, or under these Terms and Conditions or the Application for Credit or any Guarantee and Indemnity given by a Guarantor, including, but not limited to seizing or taking exclusive possession of the Goods and/or Services subject to the Security Interest, and the retention of such Goods and/or Services for the Supplier's exclusive possession, ownership and use as legal and beneficial owner, free of all other claims, Security Interests or other such interests of any third party;

- 12.5. the Customer irrevocably authorises the Supplier to disclose such personal information pertaining to the Customer as the Supplier may have in its possession to third parties for the purposes of the Supplier enforcing any provision of these Terms and Conditions;
- 12.6. the Supplier may in its absolute discretion debit the Customer's account with the following amounts which the Customer shall be liable to the Supplier to pay:
 - 12.6.1. interest charges at the rate of 10% calculated on an annual basis on amounts outstanding past the Due Date;
 - 12.6.2. all collection fees and commissions, administrative costs, out of pocket expenses and legal costs (calculated on a solicitor and own Customer basis) incurred by the Supplier as a direct or indirect consequence of such Default Event.
 - 12.6.3. all costs, charges and expenses (including all stamp duty and legal fees on an indemnity basis) incurred by the Supplier, its legal advisers, mercantile agents and others in connection with entry into these Terms and Conditions, the exercise or attempted exercise of any power, right or remedy under these Terms and Conditions, the failure of the Customer to comply with these Terms and Conditions.

13. SUPPLY OF GOODS AND/OR SERVICES INTERNATIONALLY

- 13.1. The Supplier only supplies Goods and/or Services within Australia.
- 13.2. Any orders placed from outside of Australia, or for delivery outside of Australia, will be automatically cancelled by the Supplier without notice to the Customer.
- 13.3. The Supplier may where an order contrary to Clauses 13.1 and 13.2 has been placed, elect to charge a Customer with administrative fees to cover the costs of cancellation of the Customer's order before processing any applicable refund.

14. RETENTION OF TITLE

- 14.1. 14.1.All Goods and/or Services delivered by the Supplier remain the property of the Supplier until all debts owing by the Customer to the Supplier have been paid, notwithstanding that payments may be made for the purpose of settlement of specifically designated claims. The Customer acknowledges that until title in and to the Goods and/or Services passes to the Customer in accordance with this Clause, the Customer holds the Goods and/or Services as bailee of the Supplier and that a fiduciary relationship exists between the Customer and the Supplier.

- 14.2. Until payment of all debts owing by the Customer to the Supplier, the Customer may sell the Goods and/or Services in the ordinary course of business, but does so as a fiduciary agent of the Supplier (but the Customer shall not hold itself out as such) provided that such sales shall not give rise to any obligations on the part of the Supplier. The Customer may, for the purpose of any such sale, part with possession of the Goods and/or Services and shall hold the proceeds of sale on trust for the Supplier in a separate account.
- 14.3. Upon retaking possession of those Goods and/or Services for which payment has not been made, the Supplier shall, within a reasonable time inspect those Goods and/or Services and credit the Customer's account with such sum as the Supplier in its absolute discretion considers to be a fair and reasonable value for the said Goods and/or Services after making due allowance for the price for which those Goods and/or Services were sold to the Customer, the condition of the Goods and/or Services at the time of repossession and the costs incurred by the Supplier in connection with the repossession, sorting and examination of Goods and/or Services.

15. PERSONAL PROPERTY SECURITIES REGISTER

- 15.1. The Supplier and the Customer agree that the supply of Goods and/or Services by the Supplier to the Customer under these Terms and Conditions constitutes a "Security Interest/s" in relation to the personal property of the Supplier for the purposes of the PPS Act.
- 15.2. The Supplier's security interest attaches to the Goods and/or Services when the Customer attains possession of the Goods and/or Services and to the proceeds of sale of the Goods and/or Services.
- 15.3. The Customer agrees that by signing these Terms and Conditions and/or the Application for Credit Account, that the Supplier may, in its absolute discretion, register a financing statement as a secured party on the Personal Property Securities Register in respect of the Security Interest created under these Terms and Conditions and/or the Application for Credit Account.
- 15.4. The Customer agrees that the supply of particular Goods and/or Services by the Supplier under these Terms and Conditions constitutes a Purchase Monies Security Interest ("PMSI") for the purposes of the PPS Act and in accordance with Section 62(2) of the PPS Act, the PMSI provided for hereunder is:
- 15.4.1. In inventory or its proceeds;
- 15.4.2. Will be perfected by registration at the time Customer takes possession of the Goods and/or Services, or thereafter at the discretion of the Supplier; and

- 15.4.3. The registration that perfects the PMSI will state, in accordance with Item 7 of the table in Section 153 of the PPS Act, that the interest is a PMSI.
- 15.5. The Customer in order to secure payment of all monies for which is it liable to the Supplier under these Terms and Conditions, or under any other arrangement, hereby charges as beneficial owner all of the Customer's interests in the Customer's personal property both in which the Customer is now possessed and in which the Customer may hereafter acquire.
- 15.6. The Customer agrees that the Supplier may elect to register one or more financing statements on the Personal Property Securities Register in respect of multiple transactions, including subsequent transactions, in relation to Goods and/or Services supplied to the Customer by the Supplier over a period of time and/or on a number of occasions. The Customer agrees that the registration by the Supplier of a singular financing statement in accordance with this Clause shall constitute an effective PMSI security over any Goods and/or Services supplied to Customer from time to time which have not been fully paid for by the Customer.
- 15.7. The security interest in favour of the Supplier is a continuing security and remains in force until the Supplier gives a final release and where required a financing change statement, to the Customer
- 15.8. The Customer agrees to do anything which the Supplier (acting reasonably) asks and considers necessary for the purposes of:
- 15.8.1. ensuring that the Security Interest is enforceable, perfected and otherwise effective; or
- 15.8.2. enabling the Supplier to apply for any registration, complete any financing statement or give any notification, in connection with the Security Interest; or
- 15.8.3. enabling the Supplier to exercise its rights in connection with the Security Interest.
- 15.9. The Supplier may apply any monies received by the Customer first to satisfy any portion of debt owing by the Customer to the Supplier that is unsecured, second to satisfy any portion of debt that is secured but not by a PMSI and third to satisfy any portion of debt that is secured by a PMSI, or in any other manner the Supplier sees fit.
- 15.10. The Supplier need not give any notice under the PPS Act (including a notice of verification statement) unless the notice is required by the PPS Act and the requirement to give it cannot be excluded or has not been excluded by this Clause 15.

- 15.11. The Supplier and the Customer must not, without the consent of the other of them, disclose any information of the kind referred to in section 275(1) of the PPS Act, except where otherwise permitted by these Terms and Conditions or required by law including where required under section 275 of the PPS Act because of the operation of section 275 (7) of the PPS Act.
- 15.12. The Customer represents and warrants that the description of the Goods and/or Services in the Application for Credit or Quotation or Order Form or any related document is correct.
- 15.13. In the event that the Customer should neglect or fail to do and sign all things necessary to allow perfection of any Security Interest created by these Terms and Conditions or the Application for Credit by the Supplier in accordance with the PPS Act, the Customer hereby appoints the Supplier to be the Customer's lawful attorney for the purposes of doing and signing all things necessary to perfect the Security Interest.
- 15.14. The Supplier and the Customer agree that the following provisions of the PPS Act do not apply to the Terms and Conditions or the Application for Credit (or a document or transaction in connection with them), to the extent that the PPS Law permits the parties to contract out of such provisions:
 - 15.14.1. section 95 (notice of removal of accession) to the extent that it requires the Supplier as secured party to give a notice to the Customer as grantor;
 - 15.14.2. section 96 (when person may retain an accession);
 - 15.14.3. The application under section 116(2) of the provisions of Part 4.3 (seizure and disposal or retention of collateral);
 - 15.14.4. section 120 (enforcement of liquid assets);
 - 15.14.5. section 121 (4) (enforcement of liquid assets – notice to grantor);
 - 15.14.6. section 125 (obligation to dispose of or retain collateral);
 - 15.14.7. section 126 (apparent possession);
 - 15.14.8. section 128 (secured party may dispose of collateral);
 - 15.14.9. section 129 (disposal by purchase);
 - 15.14.10. section 130 (notice of disposal), to the extent that it requires the Supplier as secured party to give a notice to the Customer as grantor;
 - 15.14.11. subsection 132(4) (statement of account if no disposal);
 - 15.14.12. section 134 (retention of collateral);
 - 15.14.13. section 135 (notice of retention of collateral);
 - 15.14.14. section 142 (redemption of collateral); and
 - 15.14.15. section 143 (reinstatement of security).

16. PRINCIPAL LIABILITY

Any signatory for a proprietary company Customer will be and remain personally responsible for the due performance of the Customer's obligations as if the signatory was the Customer. If required by the Supplier, the signatory will procure the execution by all Customer company directors of a guarantee to be prepared by or on behalf of the Supplier.

17. STATUTORY WARRANTIES

- 17.1. Many of the Supplier's Goods and/or Services come with a guarantee or warranty from the manufacturer. In addition, they come with guarantees that cannot be excluded under the Australian Consumer Law. If the Australian Consumer Law applies, the Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage and is entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure. Full details of your consumer rights may be found at www.consumerlaw.gov.au.
- 17.2. Where the Supplier is not permitted to exclude, restrict, or modify its liability for a breach of a condition or warranty that is implied by any statute or applicable laws but is permitted to limit its liability for the breach of such condition or warranty, the Supplier's liability is limited to any one of the following as determined by the Supplier in its absolute discretion:
- 17.2.1. in the case of Goods supplied, the replacement of the Goods or the supply of equivalent Goods, the repair of the Goods, the payment of the cost of replacement of the Goods or of acquiring equivalent Goods, or for the payment of the cost of having the Goods repaired; and
- 17.2.2. in the case of Services provided, the supply of the Services again, or the payment of the cost of having the Services supplied again.
- 17.3. The Customer acknowledges that all Goods and/or Services are sold subject to the manufacturer's trading terms and conditions and any warranty of the manufacturer.

18. EXCLUSION OF WARRANTIES

Subject always to Clause 17, all conditions, warranties and guarantees other than those expressly provided for in these Terms and Conditions are excluded to the fullest extent permitted by law; and the Supplier will not be liable to the Customer for any loss caused (in whole or in part) by or arising out of any use of the Goods and/or Services or any defect in the Goods and/or Services or any failure, malfunction, breakdown or deterioration of the Goods and/or Services.

19. NOTIFICATION OF CHANGE OF DETAILS

Where any change takes places in the Customer's trading structure or management, including any change of director, shareholder or any change in partnership or trusteeship notwithstanding any advice by the Customer to Company, the Customer shall not continue to operate its credit account without the Supplier's prior written consent, and the Customer shall remain liable for all amounts owed to the Supplier until the whole amount (including interest and charges) has been paid in full to the Supplier.

20. PRIVACY

The Supplier complies with the *Privacy Act 1998 (Cth)* ("Privacy Act") in relation to collection and handling of personal information and disclosure of personal information to a credit reporting agency in accordance with the Privacy Act. A copy of the Supplier's Privacy Policy is available here. The Customer agrees to the terms of the Supplier's Privacy Policy in accordance with the Customer's acceptance of these Terms and Conditions.

21. CONSENT TO WEBLINK

The Supplier consents to a Customer or third party directly linking their website or other internet based media to the Supplier's website on the condition that the Supplier retains the absolute right to demand that any Customer or third party remove a link linking that Customer's or third party's websites or other internet based media to the Supplier's website, if the Supplier so determines in its absolute discretion.

22. VARIATION OF TERMS

The Supplier has the right to vary these Terms and Conditions, in its complete discretion and without incurring any liability to the Customer, at any time by notice to the Customer and thereafter the varied Terms and Conditions are binding on the Customer.

23. FORCE MAJURE

- 23.1. The Supplier will not be or deemed to be in default or breach of any Agreement or any part of these Terms and Conditions as a result of the effects of force majeure.
- 23.2. Force majeure will include any cause beyond the reasonable control of the Supplier.
- 23.3. The Supplier will not be liable for any loss incurred as a result of delay or failure to meet an acceptable order or to observe these Terms due to the effects of force majeure.

24. MISCELLANEOUS

- 24.1. These Terms and Conditions are governed by the laws of the State of Victoria and the parties submit to the non-exclusive jurisdiction of the Victorian Courts and the courts of appeal therefrom.
- 24.2. These Terms and Conditions bind the Customer both personally and as trustee of any trust which the Customer is trustee.
- 24.3. Each clause and subclause of these Terms and Conditions are separate and independent. If any clause or subclause is found to be invalid or ineffective, the other clauses or subclauses will not be adversely affected.
- 24.4. The Supplier may transfer its rights under these Terms and Conditions to a third party. If the Supplier does, these Terms and Conditions will apply to the transferee as if it were the Supplier. If the Supplier wishes to transfer its rights it is permitted give the proposed transferee all information that privacy legislation allows it to give.
- 24.5. The Customer cannot assign its rights or obligations under these Terms to any third party without the prior written consent of the Supplier, which may be withheld in the Supplier's absolute discretion.