
Fossbridge Pty Ltd T/A Logan Glass Centres – Terms & Conditions of Trade

1. Definitions

- 1.1 “Contract” means the terms and conditions contained herein, together with any Quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 “LGC” means Fossbridge Pty Ltd T/A Logan Glass Centres, its successors and assigns or any person acting on behalf of and with the authority of Fossbridge Pty Ltd T/A Logan Glass Centres.
- 1.3 “Customer” means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting LGC to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
 - (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
 - (c) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and
 - (d) includes the Customer’s executors, administrators, successors and permitted assigns.
- 1.4 “Products” means all Products or Services supplied by LGC to the Customer at the Customer’s request from time to time (where the context so permits the terms ‘Products’ or ‘Services’ shall be interchangeable for the other).
- 1.5 “Confidential Information” means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party’s intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, “**Personal Information**” such as: name, address, D.O.B, occupation, driver’s license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.6 “Cookies” means small files which are stored on a user’s computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client’s computer. **If the Customer does not wish to allow Cookies to operate in the background when ordering from the website, then the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Products via the website.**
- 1.7 “Price” means the Price payable (plus any GST where applicable) for the Products as agreed between LGC and the Customer in accordance with clause 6 below.
- 1.8 “GST” means Products and Services Tax as defined within the “A New Tax System (Products and Services Tax) Act 1999” (Cth).

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts Delivery of the Products.
- 2.2 In the event:
- (a) of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
 - (b) that the Products and/or Services provided by LGC are the subject of an insurance claim that the Customer has made, then the Customer shall be responsible for the payment of any monies payable to the insurance company and agrees to honour their obligation for payment for such transactions invoiced by LGC and shall ensure payment is made by the due date irrespective of whether the insurance claim is successful.
 - (c) that LGC is required to provide the Services urgently, that may require LGC staff to work outside normal business hours (including but not limited to working, through lunch breaks, weekends and/or Public Holidays) then LGC reserves the right to charge the Customer additional labour costs (penalty rates will apply), unless otherwise agreed between LGC and the Customer.
 - (d) that the supply of Products request exceeds the Customers credit limit and/or the account exceeds the payment terms, LGC reserves the right to refuse Delivery.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Customer acknowledges that the supply of Products on credit shall not take effect until the Customer has completed a credit application with LGC and it has been approved with a credit limit established for the account.
- 2.5 The Customer acknowledges and accepts that the supply of Products for accepted orders may be subject to availability and quality of raw Product and if, for any reason, Products are not or cease to be available, LGC reserves the right to vary the Price with alternative Products as per clause 6.2.
- 2.6 Notwithstanding clause 2.5 LGC also reserves the right at their discretion to introduce additional new Products as part of the Products to be supplied.
- 2.7 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.8 The Customer acknowledges that the supply of Products on credit shall not take effect until the Customer has completed a credit application with LGC and it has been approved with a credit limit established for the account.
- 2.9 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 14 of the Electronic applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

- 3.1 The Customer acknowledges and accepts that LGC shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- (a) resulting from an inadvertent mistake made by LGC in the formation and/or administration of this Contract; and/or
 - (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by LGC in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of LGC; the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Authorised Representatives

- 4.1 The Customer acknowledges that LGC shall (for the duration of the Works) liaise directly with one (1) authorised representative, and that once introduced as such to LGC, that person shall have the full authority of the Customer to order any Works, Materials and/or to request

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any variation thereto on the Customer's behalf. The Customer accepts that they will be solely liable to LGC for all additional costs incurred by LGC (including LGC's profit margin) in providing any Works, Materials or variation/s requested thereto by the Customer's duly authorised representative.

5. Change in Control

5.1 The Customer shall give LGC not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, change of trustees, or business practice). The Customer shall be liable for any loss incurred by LGC as a result of the Customer's failure to comply with this clause.

6. Price and Payment

6.1 At LGC's sole discretion the Price shall be either:

- (a) as indicated on any invoice provided by LGC to the Customer; or
- (b) the Price as at the date of Delivery of the Products according to LGC's current price list; or
- (c) LGC's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

6.2 LGC reserves the right to change the Price if a variation to LGC's quotation is requested. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation as a result of additional works required due to hidden or unidentifiable, overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges, inaccurate measurements provided by the Customer or as a result of increases to LGC in the cost of materials and labour) will be charged for on the basis of LGC's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.

6.3 At LGC's sole discretion a non-refundable deposit may be required.

6.4 Time for payment for the Products being of the essence, the Price will be payable by the Customer on the date/s determined by LGC, which may be:

- (a) on Delivery of the Products;
- (b) before Delivery of the Products;
- (c) for certain approved Customers, due thirty (30) days following the end of the month in which a statement is posted to the Customer's address or address for notices;
- (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 Customer by LGC.

6.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Customer and LGC.

6.6 LGC may in its discretion allocate any payment received from the Customer towards any invoice that LGC determines and may do so at the time of receipt or at any time afterwards. On any default by the Customer LGC may re-allocate any payments previously received and allocated. In the absence of any payment allocation by LGC, payment will be deemed to be allocated in such manner as preserves the maximum value of LGC's Purchase Money Security Interest (as defined in the PPSA) in the Products.

6.7 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by LGC nor to withhold payment of any invoice because part of that invoice is in dispute.

6.8 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to LGC an amount equal to any GST LGC must pay for any supply by LGC under this or any other contract for the sale of the Products. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

7. Delivery of Products

7.1 Delivery ("**Delivery**") of the Products is taken to occur at the time that:

- (a) the Customer or the Customer's nominated carrier takes possession of the Products at LGC's address; or
- (b) LGC (or LGC's nominated carrier) delivers the Products to the Customer's nominated address even if the Customer is not present at the address.

7.2 At LGC's sole discretion, the cost of Delivery is either included in the Price or is in addition to the Price.

7.3 LGC may deliver the Products in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

7.4 Any time specified by LGC for Delivery of the Products is an estimate only and LGC will not be liable for any loss or damage incurred by the Customer as a result of Delivery being late. However both parties agree that they shall make every endeavour to enable the Products to be delivered at the time and place as was arranged between both parties. In the event that LGC is unable to supply the Products as agreed solely due to any action or inaction of the Customer, then LGC shall be entitled to charge a reasonable fee for redelivery and/or storage.

8. Risk

8.1 Risk of damage to or loss of the Products passes to the Customer on Delivery and the Customer must insure the Products on or before Delivery.

8.2 If any of the Products are damaged or destroyed following Delivery but prior to ownership passing to the Customer, LGC is entitled to receive all insurance proceeds payable for the Products. The production of these terms and conditions by LGC is sufficient evidence of LGC's rights to receive the insurance proceeds without the need for any person dealing with LGC to make further enquiries.

8.3 If the Customer requests LGC to leave Products outside LGC's premises for collection or to deliver the Products to an unattended location, then such Products shall be left at the Customer's sole risk.

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- 8.4 The application of paint on the Products can reveal small defects in the glass that occur during the manufacture and processing of the Products. LGC shall not be liable for such defects which can include small scratches, scuffs, seeds and/or toughening roller.
- 8.5 Products may be subject to a plus or minus two millimetre (+/- 2mm) tolerance due to variation in glass thickness and small waves that may result from the toughening process used to produce the Products. Such variations may be more visible in darker coloured Products. Edge slip of 3mm is unavoidable and accepted on stock sheets of laminated glass. LGC offers no guarantee against defects of this nature.
- 8.6 The Customer acknowledges that Products supplied may
- (a) exhibit variations in shade, colour, texture, surface, finish, markings and may contain natural fissures, occlusions, lines, indentations and may fade or change colour over time; and
 - (b) expand, contract or distort as a result of exposure to heat, cold, weather; and
 - (c) mark or stain if exposed to certain substances; and
 - (d) be damaged or disfigured by impact or scratching.
- 8.7 Holes, cut outs and cutting of the Products may weaken the strength of the Products and although it's unlikely, cracking may occur. LGC accepts no responsibility against cracks occurring after such Products (that are subject to holes and cut outs) are installed unless a toughened glass is used.
- 8.8 Where LGC is required to install the Products the Customer warrants that the structure of the premises or equipment in or upon which these Products are to be installed or erected is sound and will sustain the installation and work incidental thereto and LGC shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising should the premises or equipment be unable to accommodate the installation.
- 8.9 Where the Customer has supplied measurements or templates (**paper or cardboard templates are not acceptable**) for LGC to complete the Products. All templates supplied by the Customer are to be of solid or rigid material and must be actual size with no screws, staples or nails protruding. The Customer acknowledges that LGC shall not be liable for any errors or damage resulting from the Customer's incorrect measurements or templates, unless there is a mistake by LGC by virtue of misinterpreting the measurements provided.
- 8.10 LGC shall not be held responsible for any damage to the Products or delays to delivery caused by outside agents. Where the Customer requests LGC to repair such damage then LGC reserves the right to charge the Customer for any costs incurred in rectifying such damage.

9. Customer's Disclaimer

- 9.1 The Customer hereby disclaims any right to rescind, or cancel any contract with LGC or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Customer by LGC and the Customer acknowledges that the Products are bought relying solely upon the Customer's skill and judgment.

10. Access

- 10.1 The Customer shall ensure that LGC has clear and free access to the work site at all times to enable them to undertake the works. LGC shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of LGC.

11. Compliance with Laws

- 11.1 The Customer and LGC shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Works.
- 11.2 The supply of all Products is in accordance with LGC's acceptance criteria and will comply with the Australian & New Zealand industry standards (AS/NZ/4667:2000).
- 11.3 The Customer shall obtain (at the expense of the Customer) all licenses and approvals that may be required for the Works.
- 11.4 The Customer agrees that the site will comply with any work health and safety (WHS) laws relating to building/construction sites and any other relevant safety standards or legislation.

12. Title

- 12.1 LGC and the Customer agree that ownership of the Products shall not pass until:
- (a) the Customer has paid LGC all amounts owing to LGC; and
 - (b) the Customer has met all of its other obligations to LGC.
- 12.2 Receipt by LGC 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.
- 12.3 It is further agreed that, until ownership of the Products passes to the Customer in accordance with clause 12.1:
- (a) the Customer is only a bailee of the Products and must return the Products to LGC on request;
 - (b) the Customer holds the benefit of the Customer's insurance of the Products on trust for LGC and must pay to LGC the proceeds of any insurance in the event of the Products being lost, damaged or destroyed;
 - (c) the Customer must not sell, dispose, or otherwise part with possession of the Products other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Products then the Customer must hold the proceeds of any such act on trust for LGC and must pay or deliver the proceeds to LGC on demand;
 - (d) the Customer should not convert or process the Products or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of LGC and must sell, dispose of or return the resulting product to LGC as it so directs;
 - (e) the Customer irrevocably authorises LGC to enter any premises where LGC believes the Products are kept and recover possession of the Products;
 - (f) LGC may recover possession of any Products in transit whether or not Delivery has occurred;
 - (g) the Customer shall not charge or grant an encumbrance over the Products nor grant nor otherwise give away any interest in the Products while they remain the property of LGC;
 - (h) LGC may commence proceedings to recover the Price of the Products sold notwithstanding that ownership of the Products has not passed to the Customer.

13. Personal Property Securities Act 2009 (“PPSA”)

- 13.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 13.2 Upon assenting to these terms and conditions in writing the Customer 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 Products and/or collateral (account) – being a monetary obligation of the Customer to LGC for Services – that have previously been supplied and that will be supplied in the future by LGC to the Customer.
- 13.3 The Customer undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which LGC may reasonably require to;
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 13.3(a)(i) or 13.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, LGC for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Products charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of LGC;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Products and/or collateral (account) in favour of a third party without the prior written consent of LGC;
 - (e) immediately advise LGC of any material change in its business practices of selling the Products which would result in a change in the nature of proceeds derived from such sales.
- 13.4 LGC and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 13.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 13.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 13.7 Unless otherwise agreed to in writing by LGC, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 13.8 The Customer must unconditionally ratify any actions taken by LGC under clauses 13.3 to 13.5.
- 13.9 Subject to any express provisions to the contrary (including those contained in this clause 13), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

14. Security and Charge

- 14.1 In consideration of LGC agreeing to supply the Products, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 14.2 The Customer indemnifies LGC from and against all LGC’s costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising LGC’s rights under this clause.
- 14.3 The Customer irrevocably appoints LGC and each director of LGC as the Customer’s true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Customer’s behalf.

15. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 15.1 The Customer must inspect the Products on Delivery and must within two (2) days of Delivery notify LGC in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Products as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow LGC to inspect the Products.
- 15.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 15.3 LGC acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 15.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, LGC makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Products. LGC’s liability in respect of these warranties is limited to the fullest extent permitted by law.
- 15.5 If the Customer is a consumer within the meaning of the CCA, LGC’s liability is limited to the extent permitted by section 64A of Schedule 2.
- 15.6 If LGC is required to replace the Products under this clause or the CCA, but is unable to do so, LGC may refund any money the Customer has paid for the Products.
- 15.7 If the Customer is not a consumer within the meaning of the CCA, LGC’s liability for any defect or damage in the Products is:
- (a) limited to the value of any express warranty or warranty card provided to the Customer by LGC at LGC’s sole discretion;
 - (b) limited to any warranty to which LGC is entitled, if LGC did not manufacture the Products;
 - (c) otherwise negated absolutely.
- 15.8 Subject to this clause 15, returns will only be accepted provided that:
- (a) the Customer has complied with the provisions of clause 15.1; and
 - (b) LGC has agreed that the Products are defective; and
 - (c) the Products are returned within a reasonable time at the Customer’s cost (if that cost is not significant); and
 - (d) the Products are returned in as close a condition to that in which they were delivered as is possible.
- 15.9 Notwithstanding clauses 15.1 to 15.8 but subject to the CCA, LGC shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- (a) the Customer failing to properly maintain or store any Products;

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- (b) the Customer using the Products for any purpose other than that for which they were designed;
 - (c) the Customer continuing the use of any Products after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) the Customer failing to follow any instructions or guidelines provided by LGC;
 - (e) fair wear and tear, any accident, or act of God.
- 15.10 LGC may in its absolute discretion accept non-defective Products for return in which case LGC may require the Customer to pay handling fees of up to twenty five percent (25%) of the value of the returned Products plus any freight costs.
- 15.11 Notwithstanding anything contained in this clause if LGC is required by a law to accept a return then LGC will only accept a return on the conditions imposed by that law.

16. Intellectual Property

- 16.1 Where LGC has designed, drawn or developed Products for the Customer, then the copyright in any designs and drawings and documents shall remain the property of LGC. Under no circumstances may such designs, drawings and documents be used without the express written approval of LGC.
- 16.2 The Customer warrants that all designs, specifications or instructions given to LGC will not cause LGC to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify LGC against any action taken by a third party against LGC in respect of any such infringement.
- 16.3 The Customer agrees that LGC may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Products which LGC has created for the Customer.

17. Default and Consequences of Default

- 17.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at LGC's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 17.2 If the Customer owes LGC any money the Customer shall indemnify LGC from and against all costs and disbursements incurred by LGC in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, LGC's contract default fee, and bank dishonour fees).
- 17.3 Further to any other rights or remedies LGC may have under this Contract, if a Customer has made payment to LGC, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by LGC under this clause 17 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.
- 17.4 Without prejudice to LGC's other remedies at law LGC shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to LGC shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to LGC becomes overdue, or in LGC's opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer has exceeded any applicable credit limit provided by LGC;
 - (c) the Customer 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
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

18. Cancellation

- 18.1 Without prejudice to any other remedies LGC may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions LGC may suspend or terminate the supply of Products to the Customer. LGC will not be liable to the Customer for any loss or damage the Customer suffers because LGC has exercised its rights under this clause.
- 18.2 LGC may cancel any contract to which these terms and conditions apply or cancel Delivery of Products at any time before the Products are delivered by giving written notice to the Customer. On giving such notice LGC shall repay to the Customer any money paid by the Customer for the Products. LGC shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 18.3 In the event that the Customer cancels Delivery of Products the Customer shall be liable for any and all loss incurred (whether direct or indirect) by LGC as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 18.4 Cancellation of orders for Products made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

19. Privacy Policy

- 19.1 All emails, documents, images or other recorded information held or used by LGC is Personal Information, as defined and referred to in clause 19.3, and therefore considered Confidential Information. LGC acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). LGC acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customers Personal Information, held by LGC that may result in serious harm to the Customer, LGC will notify the Customer in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Customer by written consent, unless subject to an operation of law.
- 19.2 Notwithstanding clause 19.1, privacy limitations will extend to LGC in respect of Cookies where transactions for purchases/orders transpire directly from LGC's website. LGC agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and

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- (c) reports are available to LGC when LGC sends an email to the Customer, so LGC may collect and review that information (“collectively Personal Information”)
- In order to enable / disable the collection of Personal Information by way of Cookies, the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via LGC’s website.
- 19.3 The Customer agrees for LGC to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver’s license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Customer in relation to credit provided by LGC.
- 19.4 The Customer agrees that LGC may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Customer; and/or
 - (b) to notify other credit providers of a default by the Customer; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Customer including the Customer’s repayment history in the preceding two (2) years.
- 19.5 The Customer consents to LGC being given a consumer credit report to collect overdue payment on commercial credit.
- 19.6 The Customer agrees that personal credit information provided may be used and retained by LGC for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Products; and/or
 - (b) analysing, verifying and/or checking the Customer’s credit, payment and/or status in relation to the provision of Products; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Products.
- 19.7 LGC may give information about the Customer to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Customer including credit history.
- 19.8 The information given to the CRB may include:
- (a) Personal Information as outlined in 19.3 above;
 - (b) name of the credit provider and that LGC is a current credit provider to the Customer;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Customer’s application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Customer no longer has any overdue accounts and LGC has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of LGC, the Customer has committed a serious credit infringement;
 - (h) advice that the amount of the Customer’s overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 19.9 The Customer shall have the right to request (by e-mail) from LGC:
- (a) a copy of the Personal Information about the Customer retained by LGC and the right to request that LGC correct any incorrect Personal Information; and
 - (b) that LGC does not disclose any Personal Information about the Customer for the purpose of direct marketing.
- 19.10 LGC will destroy Personal Information upon the Customer’s request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 19.11 The Customer can make a privacy complaint by contacting LGC via e-mail. LGC will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.

20. Service of Notices

- 20.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Contract;
 - (c) by sending it by registered post to the address of the other party as stated in this Contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party’s last known email address.
- 20.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

21. Trusts

- 21.1 If the Customer at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust (“Trust”) then whether or not LGC may have notice of the Trust, the Customer covenants with LGC as follows:
- (a) the Contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;

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- (b) the Customer has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Customer against the Trust or the trust fund. The Customer will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
- (c) the Customer will not without consent in writing of LGC (LGC will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Customer as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.

22. General

- 22.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party'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.
- 22.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the state of Queensland in which LGC has its principal place of business, and are subject to the jurisdiction of the courts of Beenleigh in that state.
- 22.3 Subject to clause 15, LGC shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by LGC of these terms and conditions (alternatively LGC's liability shall be limited to damages which under no circumstances shall exceed the Price of the Products).
- 22.4 LGC may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.
- 22.5 The Customer cannot licence or assign without the written approval of LGC.
- 22.6 LGC may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of LGC's sub-contractors without the authority of LGC.
- 22.7 The Customer agrees that LGC may amend their general terms and conditions for subsequent future contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for LGC to provide Products to the Customer.
- 22.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 22.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.