

TERMS AND CONDITIONS (PAGE 1)

These Terms and Conditions are for all products and services supplied by Haines Contracting (Qld) Pty Ltd trading as Haines Electrical Service, herein referred to as "the Contractor". With the exception as otherwise agreed in writing between the Contractor and the Customer, these Terms and Conditions shall apply notwithstanding any provisions to the contrary which may appear on any document or agreement between the Contractor and the Customer.

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Terms and Conditions and in any instrument created pursuant to or in accordance with it, unless the context otherwise requires:

"Base Work" means the Site conditions including work carried out by others in, on, or over which the Contractor is to carry out the Works;

"Business Day" means any day except Saturday or Sunday or a day that is a public or bank holiday in Queensland;

"Contract Documents" include all drawings, plans and specifications and all other information provided by the Customer to the Contractor;

"Completion Date" means the date for completion of the Works under the Contract;

"Contract" means the contract to carry out the Works between the Customer and the Contractor by the acceptance of the Quotation by the Customer;

"Contractor's Associates" means any employees, agents, consultants, contractors and subcontractors of the Contractor;

"Customer" means the person or party placing the Order for the Works or products or services supplied by the Contractor as specified in any invoice, document or order.

"Defects Liability Period" means the period as set out in the Quotation;

"Electrical Equipment" has the meaning given to this term by the *Electrical Safety Act 2002 (Qld)*;

"GST Act" means the Act titled *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* as amended from time to time;

"GST" has the meaning given to this term by the GST Act;

"Order" has the meaning given to this term by clause 3.3;

"Practical Completion" means the stage when the Works have been completed in accordance with the Contract and all relevant statutory requirements either without any omissions or defects or apart from minor omissions or minor defects;

"Price" means the price to be paid by the Customer to the Contractor for the performance of the Works in accordance with the terms of the Contract;

"Prime Cost Item" means an item, including, for example, a fixture or fitting

- (a) that has not been selected, or the price of which is not known, when the Contract is entered into; and
- (b) for the cost of supply and delivery of which a reasonable allowance is, or is to be, made in the Contract by the Contractor.

"Provisional Sum" is the amount that is the Contractor's estimate of the cost of performing the Works, in relation to Works for which the Contractor, after making all reasonable enquiries, can not state a definite amount when the Contract is entered into;

"Quotation" means the written quotation given by the Contractor to the Customer which must set out the scope of the Works, the commencement and completion dates of the Works, the price of the Works and the insurance cover held by the Contractor in relation to the performance of the Works;

"Receipt Day" means:-

- (a) the day on which the Customer receives the following documents from the Contractor:-
 - (i) a copy of the signed Contract; and
 - (ii) a copy of the appropriate contract information statement for the Contract; or
- (b) if the documents mentioned in (a) are received by the Customer from the Contractor on different days, the later of the days;

"Site" means where the works under the Contract are carried out;

"Variation" means to vary the Works by:

- (i) carrying out additional work;
- (ii) omitting any part of the Works;

(iii) changing the scope of the Works.

"Works" means the work to be carried out under the Contract including Variations.

1.2 Interpretation

In these Terms and Conditions and in any instrument created pursuant to or in accordance with them, unless the context otherwise requires:

1.2.1 A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provisions substituted for, and any subordinate legislation issued under, that legislation or legislative provision;

1.2.2 The singular includes the plural and vice versa;

1.2.3 A reference to a person includes an individual and a corporation, partnership, joint venture, association, authority, trust, State or Government and vice versa;

1.2.4 A person includes the legal personal representatives, successors and assigns of that person;

1.2.5 A reference to any gender includes all genders;

1.2.6 A reference to a recital, clause, schedule, annexure, appendix or exhibit is to a recital, clause, schedule, annexure, appendix or exhibit of or to these Terms and Conditions

1.2.7 A recital, schedule, annexure, appendix or exhibit or description of the parties forms part of these Terms and Conditions;

1.2.8 A reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;

1.2.9 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;

1.2.10 Where an expression is defined anywhere in these Terms and Conditions it has the same meaning throughout;

1.2.11 A reference to "dollars" or "\$" is to an amount in Australian currency.

1.3 Headings

All headings throughout these Terms and Conditions have been inserted for the purpose of ease of reference only and will not define, limit or affect the meaning or interpretation of these Terms and Conditions or of any instrument created pursuant to or in accordance with them.

2 LAW

2.1 These Terms and Conditions and any Contract made between the parties shall be governed by and construed in accordance with the laws of the State of Queensland and the parties agree to submit to the jurisdiction of the Courts of that State in all matters arising out of these Terms and Conditions and any Contract made between the parties.

3 FORMATION OF AGREEMENT

3.1 The Customer must accept or reject a Quotation within thirty (30) days of its receipt. The Contractor may, at its option, extend this period by notification in writing to the Customer.

3.2 The Contractor may, at its sole and absolute discretion, and without incurring any liability to the Customer whatsoever, revise or withdraw the Quotation at any time before communication by the Customer to the Contractor of its acceptance of the Quotation in writing.

3.3 The Customer may accept a Quotation by sending to the Contractor its written acknowledgement and agreement to the terms of the Quotation (an "Order"), or if the Customer acknowledges the agreement by signing and returning a copy of the Quotation to the Contractor.

3.4 The parties will be deemed to have formed a Contract upon the communication by the Customer to the Contractor of its acceptance of the Quotation in writing.

3.5 In the event the Customer provides the Contractor with a written Order, such Order is subject to these Terms and Conditions and any other terms and conditions that are agreed by the parties in writing to become part of the Contract.

4 DUTIES OF THE CONTRACTOR

4.1 The Contractor must carry out and complete the Works in the best trade practice and professional manner and in compliance with the terms and provisions of the Contract Documents by the Completion Date.

4.2 The Contractor may employ its Contractor's Associates or any third party for the purpose of completing the Works provided such person(s) are careful, skilled and experienced in their respective trades or occupations. The Contractor will be solely responsible for any and all payments to any Contractor's Associates or third party for that part of the Works performed by it.

5 VARIATIONS

5.1 Any person seeking a variation to the Contract shall notify the other party in writing, setting out in full the details of the required changes to the Works.

5.2 A variation document will be prepared by the Contractor which must:

5.2.1 Be in writing and signed by both the Customer and the Contractor;

5.2.2 State the scope of the Works which is the subject of the Variation;

5.2.3 Where the variation in sought by the Contractor, state the reason for the Variation;

5.2.4 State:-

5.2.4.1 The change in the Price by reason of the Variation, or

5.2.4.2 Where it is not practicable for the parties to state the change in the Price by reason of the Variation, or where no agreement is reached by the Customer and the Contractor as to the value of the variations, then:-

5.2.4.2.1 Additions shall be charged at cost (exclusive of GST) plus 10%, plus any and all GST payable with respect to the addition; and

5.2.4.2.2 Deletions are to be charged at cost, plus any and all GST payable with respect to the deletion and the Price is to be adjusted accordingly at the next payment made after the commencement of the Works the subject of the Variation;

5.2.5 State the revised Completion Date (if applicable and practicable).

6 CONTRACTOR'S WARRANTY

6.1 The Contractor warrants that:-

6.1.1 All materials to be supplied for use in the Works:-

6.1.1.1 Will be good and, having regard to the generally accepted practices or standards applied in the building industry for the materials or the specifications, instructions or recommendations of manufacturers or suppliers of the materials, will be suitable for the purpose for which they are used and;

6.1.1.2 Unless otherwise stated, are new;

6.1.2 The Works will be carried out:-

6.1.2.1 In accordance with all relevant laws and legal requirements, including the Electricity Safety Act 2002 (Qld), Electrical Safety Regulation 2002 (Qld) and Electrical Safety codes of practice.

6.1.2.2 In an appropriate and skilful way; and

6.1.2.3 With reasonable care and skill;

6.1.3 If applicable, the Provisional Sum has been calculated with reasonable care and skill, having regard to all the information reasonably available when the Contract is entered into (including information about the nature and location of the Site); and

6.1.4 At all times during the currency of the Contract it will hold all licences required to carry out and complete the Works.

6.2 The Contractor does not warrant the quality or performance of any Electrical Equipment supplied or installed by the Contractor. It is the Customer's responsibility to establish the warranty relationship with the manufacturer by ensuring that warranty cards or other registration requirements of the manufacturer of any Electrical Equipment supplied or installed by the Contractor are complied with.

7 PROGRESS PAYMENTS

7.1 The Customer shall pay to the Contractor the Deposit stated in the Schedule upon the signing or acceptance of the Quotation.

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7.2 The Customer will pay the Contractor the Price by way of progress payments, calculated in accordance with clause 7.3.

7.3 The Contractor shall submit to the Customer written requests for progress payments upon completion of each stage of the Works which shall be in the form of a proper and valid Tax Invoice, in accordance with the GST Act, and consist of:

7.3.1 The percentage of the Price applicable to that stage as stated in the Quotation; and

7.3.2 Any other amounts then payable to the Contractor under the Contract.

7.4 The Customer must pay the Contractor progress payments in accordance with the written claims supplied by the Contractor in accordance with clause 7.3 within seven (7) days of submission of the progress claim in the form of a proper and valid Tax Invoice by the Contractor.

7.5 Should the Customer neglect or refuse to pay the amount of any progress payment by the due date, then the Contractor may, at its option, with or without notice to the Customer, suspend performance of the Works until such payment has been received in full in addition to the Contractor's other rights at law.

8 INCREASED COSTS

8.1 If, after 30 days from the Customer's acceptance of the Quotation, the Contractor's costs in connection with the Contract are increased as a result of the introduction of new, or changes to existing, government laws, regulations, taxes or charges or Prime Cost Items or Provisional Sums then the Price shall be increased to reflect such changes and the Customer shall pay the increased Price to the Contractor in accordance with the provisions of Clause 7.

9 EXCEPTED RISKS

9.1 The Contractor shall not be liable for any delay or failure to perform its obligations under these Terms and Conditions or any Contract between the parties if such failure or delay results directly or indirectly from any cause, matter or thing beyond the reasonable control of the Contractor, including but not limited to:

9.1.1 Any act, default or omission on the part of the Customer, its employees and or agents; or

9.1.2 Any events occurring on or before Completion Date including but not limited to:-

9.1.2.1 Damage by fire, explosion, earthquake, lightning, storm, flood, acts of God, civil or military authority, public enemy, war, civil commotion, strikes, labour disputes or industrial conditions;

9.1.2.2 Epidemic, pandemic or outbreak of any infectious disease or any derivative or mutation of such virus or viruses that may also result in government enforced actions such as shutdowns or movement restrictions that directly or indirectly impact the performance of the works;

9.1.2.3 Electric power supply failure;

9.1.2.4 Inclement weather;

9.1.2.5 Unavailability of suitable materials or parts;

9.1.2.6 Failure of transportation affecting the Contractor, its supplier or any other person company or firm;

9.1.3 Latent conditions;

9.1.4 Variations directed by the Customer;

9.1.5 Changes in the law; or

9.1.6 Directions or delays by municipal, public or statutory authorities.

10 RISK & OWNERSHIP

10.1 Risk of loss, damage or destruction to the materials, equipment and Electrical Equipment or any part thereof shall pass to the Customer on installation.

10.2 In connection with the materials, equipment and Electrical Equipment while they remain the property of the Contractor, the Customer agrees with the Contractor that:

10.2.1 The Customer has no right or claim to any interest in the materials to secure any liquidated or unliquidated debt or obligation the Contractor owes to the Customer;

10.2.2 The Customer cannot claim any lien over the materials;

10.2.3 The Customer will not create any absolute or defeasible interest in the materials in relation to any third party except as may be authorised by the Contractor;

10.2.4 Where the Customer is in actual or constructive possession of the materials:

10.2.4.1 The Customer will not deliver them or any document of title to the materials to any person except as directed by the Contractor; and

10.2.4.2 It is in possession of the materials as a bailee of those materials and owes the Contractor the duties and liabilities of a bailee.

10.3 In connection with the materials, the Contractor states to the Customer that:

10.3.1 The Contractor has the right to supply the materials to the Customer;

10.3.2 The activities of the Contractor in supplying the materials do not infringe the rights of the owner of the materials (where the Contractor is not the owner of the materials);

10.3.3.1 If the materials are not owned by the Contractor, that the Contractor is authorised to supply the materials to the Customer.

10.4 The Contractor and the Customer agree that:

10.4.1 The property of the Contractor in the materials remains with the Contractor until the Contractor has received payment in full of the Price and any other monies due to the Contractor under these Terms and Conditions or any Contract between the parties;

10.4.2 The Customer is a bailee of the materials until such time as property in them passes to the Customer and that this bailment continues in relation to all of the materials until the Price of the Contract has been paid in full;

10.4.3 Pending payment in full of the Price under the Contract, the Customer:

10.4.3.1 Must not supply any of the materials to any person;

10.4.3.2 Must not allow any person to have or acquire any security interest in the materials;

10.4.3.3 Must insure the materials for their full insurable or replacement value (whichever is the higher) with any insurer licenced or authorised to conduct the business of insurance in the place where the Customer carries on business;

10.4.3.4 Must not remove, deface or obliterate any identifying plate, mark or number on any of the materials.

10.5 Despite this clause 10, if the Customer supplies any of the materials to any person before all moneys payable by the Customer have been paid to the Contractor (and have not been claimed or clawed-back by any person standing in the place of or representing the Customer), the Customer agrees that:

10.5.1 It holds the proceeds of re-supply of the materials on trust for and as agent for the Contractor immediately when they are receivable or received;

10.5.2 It must either pay the amount of the proceeds of re-supply to the seller immediately when they are received or pay those proceeds into an account with a bank or financial institution or deposit-taking institution as trustee for the Contractor;

10.5.3 Any accessory or item which accedes to any of the materials by an act of the Customer or of any person at the direction or request of the Customer becomes and remains the property of the Contractor until the Contractor is paid in accordance with clause 10.4.1 when the property in the materials (including the accessory) passes to the Customer;

10.5.4 If the Customer fails to pay the Price within the period as stated in the Contract, the Contractor may recover possession of the materials at any site owned, possessed or controlled by the Customer and the Customer agrees that the Contractor has an irrevocable licence to do so and to dispose of the equipment to recover costs if the Customer breaches this agreement or any Contract between the parties.

11 ACCESS

11.1 The Contractor's Quotation is based on a continuous work programme, unless otherwise stated. If the Customer causes the Works to be delayed or delays are caused by any of the events in clause 9, then the performance of the Contractor's obligations under these Terms and Conditions or any Contract between the parties shall be suspended for the

period of such delay and the Completion Date shall be extended accordingly.

11.2 Where the Contractor has been granted an extension of time under this clause 11, the Customer shall pay to the Contractor such extra costs as are necessarily incurred by the Contractor by reason of the delay.

12 PRACTICAL COMPLETION

12.1 The Contractor shall complete the Works to Practical Completion in accordance with these Terms and Conditions and the Contract on or before the Completion Date (as amended or varied).

12.2 When, in the opinion of the Contractor, the Works have been completed to a stage of Practical Completion, the Contractor may give the Customer notice.

12.3 Within five (5) days after receipt of such notice, the Customer, if not satisfied that the Works are practically complete, shall give to the Contractor notice of those matters, which the Customer requires to be carried out in order for the Works to reach Practical Completion. If the Customer does not respond by notice within the required time, then the Works shall be deemed to be practically complete without any omissions or defects.

12.4 Upon receipt of a notice from the Customer in accordance with clause 12.3, the Contractor must give the Customer a notice that:-

12.4.1 Lists the minor defects and minor omissions that both the Customer and the Contractor agree exist; and

12.4.2 States the date by when the Contractor is to correct the listed defects and omissions; and

12.4.3 Lists the minor defects and omissions the Customer claims exist, but that are not agreed by the Contractor to exist; and

12.4.4 Is signed by the Contractor

the Contractor may then receive the payment required to be made under the Contract by the Customer to the Contractor for the Practical Completion stage.

12.5 The Contractor must make a reasonable effort to have the Customer sign the notice mentioned and referred to in clause 12.4 to acknowledge its contents.

12.6 If, in the absence of written agreement between the Contractor and the Customer, the Customer takes possession of and/or uses the Works or any part thereof prior to the date of Practical Completion pursuant to this condition, the Works shall be deemed to have been practically completed on the date of commencement of such possession and/or occupancy and/or use.

12.7 The date of Practical Completion shall be the date for commencement of the Defects Liability Period.

13 RETENTION

13.1 If the parties agree in writing that the Customer shall retain retention monies from the Price, then such retention monies shall be limited to 5% of the Price and may be in the form of a Bank Guarantee in lieu of cash at the Contractor's option. Any retention monies, bank guarantees or other forms of retention held by the Customer are to be returned or released to the Contractor on the date of Practical Completion.

14 WORKING HOURS

14.1 All work will be carried out during normal working hours (7.00am-3.30pm Monday to Friday) unless otherwise stated. The Customer agrees that should the Customer require the Contractor to carry out any of the Works outside of the nominated hours, then the Price will be increased to reflect award penalty rates for that part of the Works performed outside of the nominated hours and the Customer shall pay the increased Price to the Contractor in accordance with the provisions of clause 7.

15 DAMAGES

15.1 Consequential, liquidated or pre ascertained damages are expressly excluded from these Terms and Conditions.

16 GST REGISTRATION

16.1 The Contractor warrants that it is registered under the GST Act and that the Contractor is not aware of any circumstances existing which would require the Commissioner of Taxation to cancel the registration.

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16 DISPUTE RESOLUTION

17.1 Any dispute between the Customer and the Contractor arising under, or in connection, with these Terms and Conditions or any Contract between the parties, shall:

17.1.1 In the first instance be referred by one party to the other and the party shall use all reasonable endeavours to resolve the difference or dispute without resort to future process: and

17.1.2 If the difference or dispute cannot be resolved in such a manner within seven (7) days of the difference or dispute arising then it shall be referred to an Expert appointed by agreement between the parties or failing agreement by either:-

17.1.2.1 The Chair of the Resolution Institute: or

17.1.2.2 The Electrical and Communications Association if the Contractor is a member of same.

As to that determination:

17.1.2.3 The Expert acts as an expert and not as an arbitrator;

17.1.2.4 The Expert must take written submissions from each party if those submissions are received within the time limit by the Expert;

17.1.2.5 The Expert's decision is final and binding;

17.1.2.6 The Expert is obliged to give reasons;

17.1.2.7 Each party must direct the Expert to provide a decision within 15 Business Days of its appointment; and

17.1.2.8 The Expert's costs shall be paid by the party determined by the Expert to be the party responsible for the payment of the Expert's costs.

18 INSURANCE

18.1 The Contractor shall effect and shall maintain Public Liability Insurance to a value of not less than \$5,000,000 and WorkCover Insurance in accordance with the requirements of the applicable legislation for all employees.

18.2 The Contractor shall provide if requested by the Customer evidence of the existence of such policies.

18.3 The Contractor holds trade credit insurance for large project customers. Acceptance of new customers is subject to trade credit insurer approval. Acceptance of projects for existing clients is subject to the insured credit limit value being of sufficient size to cover the works, or trade credit insurer approval of an increased credit limit.

19 NOTICES

19.1 Any notice under these Terms and Conditions shall be given in writing and delivered to the other party by hand, or by prepaid post to the address stated in these Terms and Conditions or to such other addresses the party to whom the notice is given may thereafter have notified. Any such notice shall be deemed to have been received three (3) days after the date of posting.

19.2 A notice may also be provided by email, and shall be deemed duly given or made at the time the email becomes capable of being retrieved by the addressee at an email address designated by the addressee, except where the sender receives notice that the email was undelivered or unsuccessful, or receives an out of office notice from the receiver, in which case the email will not be delivered under these Terms and Conditions. Where notice is provided by email and transmission is after 5.00pm AEST on a Business Day or on a day that is not a Business Day at the place of receipt, such notice will be deemed to have been received on the next Business Day at the place of receipt.

20 TIME CALCULATIONS – DELAYS

20.1 An allowance of _____ days is made in the event of inclement weather during the course of the Works.

20.2 An allowance of _____ days is made for non-working days during the period in which the Works are carried out.

20.3 An allowance of _____ days is made for the carrying out of the Works for the following reasons:

20.4 The Contractor reasonably believes that the carrying out of the Works will be delayed for the following reasons:

20.5 It is not possible for the Contractor to adequately estimate the period of likely delay which will occur (if any) for the reasons set out in the subparagraph above.

20.6 In the event that such delays occur, the Contractor states that the general effect the delays are likely to have on the carrying out of the Works is:

21 SECURITY OF PAYMENT

21.1 The provisions of Clause 21.2 shall apply only to a Customer who is a natural person and shall not apply to a Customer that is a corporation.

21.2 The Customer does hereby agree to charge all of their respective property both real and personal where so ever situated with the amount of monies owed by the Customer to the Contractor herein. As further and better security for the repayment of all money from time to time owing by the Customer to the Contractor the Customer mortgages and charges to and in favour of the Contractor all right, title, estate and interest which the Customer now holds or may hold hereafter acquire and hold in any real or personal property in Australia. The Customer shall, at the request of the Contractor, sign execute and deliver in favour of the Contractor such mortgage or charge over the Customer's real or personal property in registrable form as the Contractor may require, such document or documents incorporating the usual terms, conditions and covenants to protect the interest of the Contractor herein, within 10 days of the Contractor requesting the same of the Customer.

21.3 For the purpose of giving full effect to these Terms and Conditions and the powers hereby conferred, whilst any monies now or from time to time owing by the Customer to the Contractor, the Customer appoints the Contractor and any of its authorised officers, jointly and each of them severally, the true and lawful and attorney and attorneys of the Customer to do anything in the name of the Customer or Contractor which the Customer should do or should have done hereunder and to do all such acts, matters and things (including the execution of any deed, mortgage, bill of sale, charge, share transfer, transfer of land and other documents whatsoever) as such attorney or attorneys may deem expedient for carrying out, or in connection with the exercise of all or any of the rights or powers herein contained or implied to give effect to these Terms and Conditions or for the enforcement thereof and this power of attorney is deemed irrevocable and given by way of security.

22 CAVEAT

22.1 The Customer and the Contractor covenant and agree that the Contractor has a caveatable interest in the land of the Customer for the purposes of the Land Title Act 1994 (Qld).

23 TERMINATION

23.1 If the customer fails to comply with any of these Terms and Conditions or being a natural person or persons commits any act of bankruptcy or being a corporation passes a resolution for winding up or liquidation (other than for the purposes of reorganisation or reconstruction) or enters into any composition or arrangement with creditors or if a receiver or manager is appointed for any property or assets of the Customer or becomes liable to be wound up by reason of insolvency or if any petition is presented for its winding up, or if a Liquidator or Provisional Liquidator is appointed, the Contractor may, in addition to exercising all or any of its rights against the Customer, suspend any further deliveries and immediately recover possession of any products not paid for in accordance with these Terms and Conditions. The Contractor will not be liable for any loss or damage the Customer suffers as a result of the Contractor exercising its rights under this clause.

23.2 If the Customer cancels or alters any Order or part order for any product at any time after the Contractor has received the Order then the Contractor reserves the right to charge to the Customer the cost of any product/s or materials already acquired for the order together with cost of labour and tooling expended to the date of such cancellation or alteration. This is a genuine estimate of costs and expenses incurred by the Contractor to the date of the cancellation or alteration.

23.3 The Contractor reserves its rights as Seller under the Sale of Goods Act 1896 (Qld) or similar State or Territory laws.

24 PERSONAL PROPERTY SECURITIES ACT 2009 (Cth) ("PPSA")

24.1 The Customer acknowledges and agrees that:

24.1.1 These Terms and Conditions constitute a security agreement for the purposes of the PPSA and creates a registrable security interest under the PPSA in all materials supplied or will be supplied by the Contractor to the Customer;

24.1.2 The Contractor has the right to register a financing statement under the PPSA with respect to the security interest created by this agreement;

24.1.3 If the Contractor registers a security interest under the PPSA, the Contractor may exercise any or all remedies afforded to it as a secured party, without prejudice to any other rights or remedies arising out of a breach by the Customer of any agreement with the Contractor: and

24.1.4 The materials supplied or will be supplied by the Contractor to the Customer are collateral for the purposes of the PPSA.

24.2 The Customer waives any right the Customer has under the PPSA to receive notice in relation to registration events.

24.3 The Customer and the Contractor agree that neither party will disclose information of the kind specified under Section 275(1) of the PPSA.

24.4 The Contractor may elect, at its absolute discretion and at any time, that any section of the PPSA specified in Section 115 will not apply to the extent permitted by Section 115.

24.5 This clause 24 shall survive the Termination of the Contract.

25 PRIVACY ACT 1988

25.1 The Customer hereby acknowledges that:

25.1.1 The Contractor collects personal information such as contact details, bank account details, insurance details and credit card details and holds such information for seven (7) years. The purpose of the collection of personal information is only for internal use;

25.1.2 They have been informed by the Contractor that personal information about them may be disclosed to or acquired from or to a credit reporting agency; and

25.1.3 If they require further information regarding the Contractor's Privacy Policy they may obtain same by providing notice to the Contractor.

25.2 The Customer hereby agrees:

25.2.1 That the Contractor may contact any trade references or other credit references at any time whether now or in the future for the purpose of assessing credit worthiness;

25.2.2 To the Contractor receiving from any other credit provider or providing to any credit provider any information whether by way of report record or otherwise relating to credit worthiness for the purposes of exchanging information, assessing credit worthiness and notification of default at any time whether now or in the future;

25.2.3 To the Contractor obtaining from a credit reporting agency a credit report on the Customer for the purposes of assessing any credit application and the Customer further consents to the Contractor obtaining such reports from time to time for the purposes of assessing credit worthiness during the continuance of credit provision;

25.2.4 To the Contractor obtaining from a business which provides credit information a report or information in relation to the Customer's commercial credit worthiness or commercial dealings and using such information for the purpose of assessing the Customer's application for credit; and

25.2.5 That, in the event of default of payment of any of their debts, the Contractor may disclose all information relating to the Customer's account to its collection agency for the purpose of receiving any or all amounts outstanding.

26 GENERAL

26.1 If any clause or part of these Terms and Conditions is invalid or not enforceable in accordance with its terms, all other terms or parts which are self-sustained and capable of separate enforcement without regard to the invalid or unenforceable clause or part thereof is and will continue to be valid and enforceable in accordance with its term.

26.2 The Contractor may assign all or any part of its rights and obligations without the Customer's consent.