

## COMMERCIAL CREDIT TRADING TERMS AND CONDITIONS

### AGREED TRADING TERMS 30 DAY ACCOUNT

Please read the undermentioned terms carefully. If you do not understand these terms of trade you should seek legal advice.

#### 1. DEFINITIONS

“**Acceptance**” has the meaning given in clause 2.3.

“**Agreement**” means this document and the Terms and Conditions contained within.

“**Approval**” means any consent, approval, order, certificate of authorisation of, or registration, declaration or filing with, or permit from, or notice to, any Authority required by applicable law.

“**Australian Standards**” refers to published documents setting out specifications and procedures designed to ensure products, services and systems are safe, reliable and consistently perform the way they are intended to.

“**Authority**” means any relevant administrative, judicial, executive, legislative or other governmental entity, department, agency, commission, board, bureau or court, and any other regulatory or self-regulatory organisations, in any country or jurisdiction.

“**Buyer**” means any purchaser of Goods and/or Services from PJL or any person acting on behalf of and with the authority of the Buyer.

“**Consequential Loss**” means any consequential, indirect, remote or unforeseeable loss, including without limitation; loss of profits or revenue, loss of use, economic or financial loss, loss of production or loss by reason of shutdown or non-operation, loss of business, loss of opportunity, business interruption, loss of goodwill or business reputation, loss of anticipated savings, increased financing or operating costs and/or exemplary or punitive damage, suffered or incurred by the Buyer or any third party.

“**Contract**” has the meaning given in clause 2.4.

“**Dispatch**” means when the Goods leave PJL’s premises for Delivery to the Buyer.

“**Deliver**”/ “**Delivery**” means: if the Goods are to be collected by the Buyer or its carrier from PJL, when loading of the Goods commences by the Buyer or its carrier; and if the Goods are to be delivered to the Buyer or its carrier by PJL or its carrier, when the Goods are unloaded at the delivery place.

“**Force Majeure**” means an act of God, war, pandemic, fire, strike, lockout, trade or industrial dispute, government interference, transport delays, accidents, breakdown of plant or machinery, or any other cause beyond PJL’s control.

“**Goods**” means the Goods and/or Equipment referred to in the Order and supplied by PJL to the Buyer under the Contract.

Authorised By	Deb Pilosof (CFO)	Issue Date
Document Number	FOR-0058-R2	23/04/2025

“**GST**” has the same meaning as in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth) (as amended).

“**Intellectual Property**” means all industrial and intellectual property rights whether protectable by statute, common law or equity including without limitation, all copyright in the Goods and all materials provided in connection with the Goods, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, design rights (registrable or not), trade mark rights (registered or not), circuit layout design rights and excluding non-assignable moral rights.

“**PJL**” means PJL Group ABN 71 151 805 408 with the registered address 27 Leewood Drive, Orange, New South Wales Australia.

“**PPSA**” means the *Personal Property Securities Act 2009* (Cth)

“**Price**” means the price of the Goods and/or Services specified in the Quote and subject to the Terms.

“**Order**” means a request or purchase order for Goods and/or Services made by a Buyer pursuant to a Quote.

“**Quote**” means the quotation provided by PJL to the Buyer for the Price, specification and scope of the Goods and/or Services, including any special terms and conditions set out in the Quote, and includes any revised Quote.

“**Services**” means any services specified in the Order and any incidental work that can be reasonably inferred as necessary or appropriate to perform those services.

“**SOPA**” means the *Building and Construction Industry Security of Payment Act 1999* (NSW).

“**Terms**” means these Terms and Conditions for the sale of Goods and Services by PJL.

## 2. THE CONTRACT

- 2.1 By making an Order, the Buyer offers to contract with PJL on the basis of the Order, the Quote and the Terms.
- 2.2 These Terms will still apply to any Order regardless of whether the Buyer returns a signed copy.
- 2.3 PJL accepts an Order made by the Buyer when PJL provides notification of Acceptance of the Order to the Buyer.
- 2.4 Upon Acceptance, a binding Contract comes into existence between PJL and the Buyer incorporating the following documents:
  - a) the Quote or any revised Quote;
  - b) these Terms and Condition
  - c) the Order; and
  - d) the notice of Acceptance of the Order.
- 2.5 These Terms and Conditions apply to all Quotes and Orders and will prevail over any terms and conditions proposed, supplied or asserted by the Buyer.
- 2.6 In the event of any inconsistency, ambiguity or discrepancy, the order of precedence in clause 2.4 applies with the first listed document taking the highest priority and so on.

## 3. ELECTRONIC TRANSACTIONS ACT 2000 (NSW)

- 3.1 Electronic signature shall be deemed to be accepted by either party providing that parties have complied with section 9 of the Electronic Transactions Act 2000 (NSW) or any other applicable provisions of that Act or any Regulations referred to in that Act.

#### **4. PRICE AND PAYMENT TERMS**

- 4.1** The Price for the Goods and/or Services is specified in the Quote. Unless the Quote states otherwise, PJL may alter the Price at any time prior to Acceptance of an Order without prior notice.
- 4.2** Should there be any variation in the Goods and/or Services, Delivery instructions or any other item or matter on which the Quote is based, PJL reserves the right to revise and amend the Price accordingly. PJL may adjust the Price to take into account variations in the cost to PJL arising from alteration or adjustment to the Goods and/or Services requested by the Buyer, delays in manufacture or Delivery, variation in government charges and statutory fees, labour difficulties, and any variation to exchange rates relevant to the calculation of the Price and which occur after the date of the Quote.
- 4.3** The Buyer must pay GST or any other tax duty, levy, tariff or charge applicable to the supply of the Goods and/or Services in addition to, and at the same time as, payment of the Price. PJL will provide the Buyer with a tax invoice as required by law.
- 4.4** Unless the Quote states otherwise, the Buyer must pay the Price for Goods and/or Services supplied to it within 30 days of the date of the invoice for such Goods and/or Services. Interest shall be payable by the Buyer on all amounts overdue to PJL at the rate of 10% per month accruing, calculated from the due date for payment of the outstanding amount until the date of payment by the Buyer. Any payment made by the Buyer will be credited first against any interest that has accrued.
- 4.5** The Buyer must not withhold payment or make any deduction from the invoiced Price or any other amount owing to PJL without PJL's prior written consent.
- 4.6** Receipt of any amount will not constitute payment until such time as the amount is paid or honoured in full.
- 4.7** If the Buyer fails to pay PJL in accordance with the Terms, PJL can do any or all of the following;
- a) suspend further deliveries of any Goods and/or Services to the Buyer;
  - b) exercise a general possessory lien over, and power of sale of, any of the Buyer's goods in PJL's possession;
  - c) exercise its right to terminate the Contract; or terminate any other agreement with the Buyer.
  - d) If PJL takes any or all of these actions, the Buyer agrees that it will have no claim whatsoever against PJL.
- 4.8** PJL will be entitled to recover from the Buyer all legal and other costs incurred by PJL arising from the Buyer's default in payment and the collection of any overdue monies.

#### **5. BUILDING AND CONSTRUCTION INDUSTRY PAYMENT LEGISLATION**

- 5.1** At PJL's sole discretion, if there are any disputes or claims for unpaid Goods and/or Services:
- a) PJL may serve payment claims in accordance with the SOPA on the Buyer for Goods and/or Services supplied in New South Wales; and
  - b) PJL may serve payment claims on the Buyer for Goods and/or Services supplied outside of New South Wales, in accordance with the relevant building and construction industry payment legislation of the state or territory in which they were supplied.
- 5.2** The Buyer acknowledges and agrees that each invoice issued by PJL to the Buyer is intended to be a payment claim under the relevant building and construction industry payment legislation of the state or territory in which the Goods and/or Services were supplied.
- 5.3** If adjudication of a payment claim is required, Adjudicate Today will be chosen to manage the adjudication process.

## 6. DELIVERY OF GOODS

- 6.1 Delivery of the Goods shall be made to the Buyer's address specified in the Order, or if not specified, delivery will be made as determined by PJL.
- 6.2 The Buyer shall make all arrangements necessary to take Delivery of the Goods whenever they are tendered for Delivery, including by ensuring the Buyer has the necessary lifting equipment available at the time of Delivery.
- 6.3 PJL may deliver the Goods by separate instalments (in accordance with any agreed delivery schedule). Each separate instalment shall be invoiced and paid for in accordance with the Terms.
- 6.4 The failure of PJL to Deliver Goods on time shall not entitle the Buyer to; claim for any loss or damage, cancel, rescind, terminate or treat the Contract as repudiated.
- 6.5 PJL shall not be liable for any loss or damage whatsoever due to failure or delay by PJL to Deliver the Goods (or any of them) promptly or at all, and the Buyer is not entitled to retain part of, deduct from or set-off against PJL's invoice in respect of any such failure or delay.
- 6.6 PJL may suspend or cancel delivery of the Goods if PJL reasonably believes that the Goods may cause injury or damage (including for technical, scientific, medical or efficacy reasons) or may infringe the intellectual property rights of any person, or if payments owing from the Buyer to PJL remain outstanding. No such suspension or cancellation will in any way constitute admission of liability or fault on PJL's part.

## 7. WARRANTY

- 7.1 To the extent permitted by law, PJL excludes all warranties except as provided in the Terms or in a manufacturer's warranty certificate provided with the Goods.
- 7.2 PJL warrants that if any defect in any Goods manufactured by PJL exists and is reported by the Buyer to PJL within two (2) months of Delivery, then PJL will, at its sole discretion, either repair the defect, or replace the Goods (after first examining the Goods) provided that:
  - a) the warranty shall not cover any defect or damage caused or contributed to by:
    - i. the Buyer's failure to properly and routinely maintain the Goods;
    - ii. the Buyer's failure to follow any verbal or written instructions or guidelines provided by PJL for use, maintenance or operation of the Goods;
    - iii. the Buyer's failure to follow any applicable legal or regulatory requirement or Australian Standards with respect to the installation, operation or maintenance of the Goods;
    - iv. any use of the Goods otherwise than for any application specified in the Order;
    - v. the continued use of the Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user;
    - vi. the use of the Goods prior to PJL completing the installation and/or commissioning of the Goods;
    - vii. consumable items subject to deterioration or consumption in normal service or operation; or
    - viii. fair wear and tear, any accident or Force Majeure.
  - b) the warranty shall not cover the costs of testing, administration, freight and packaging or any off-site expenses incurred by PJL including travel, vehicle expenses, freight, transport and accommodation, which will be at the cost of the Buyer.
  - c) the warranty shall be voided if the Goods are repaired, altered or overhauled by the Buyer or any third party without PJL's written consent being first obtained.

- d) in respect of all warranty claims, PJL shall not be liable to compensate the Buyer for any delay in either replacing or repairing the Goods or in properly assessing the Buyer's warranty claim.
- e) the warranty shall be voided if the Buyer defaults in any payment of the Price.

- 7.3** If no defect claims are reported to PJL within two (2) months, the Buyer assumes all responsibilities with the Goods and/or Services and PJL shall have no liability whatsoever.
- 7.4** For Goods not manufactured by PJL, the warranty shall be the current warranty provided by the manufacturer of the Goods. PJL shall have no liability whatsoever in addition to the terms of the manufacturer's warranty.
- 7.5** The following statement applies if the supply of the Goods and/or Services to the Buyer is a consumer sale as defined in the Australian Consumer Law. In this statement, 'Our' means 'PJL', 'You' means the 'Buyer':

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- a) to cancel your service contract with us; and
- b) to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion.

## **8. RISK AND TITLE**

- 8.1** All risk for the Goods passes to the Buyer on Delivery. This shall also apply to any partial Delivery of the Goods or attempted Delivery of the Goods. Thereafter risk of damage to, or loss or deterioration of, the Goods from any cause whatsoever passes to the Buyer.
- 8.2** Title and property in the Goods shall not pass to the Buyer until PJL receives payment in full for the Goods in cleared funds in its bank account.
- 8.3** Until such time as title in the Goods passes from PJL to the Buyer, PJL may give notice in writing to the Buyer to return the Goods or any of them to PJL or, alternatively, the Buyer grants PJL authority to enter the Buyer's premises to retake possession of the Goods. Upon such notice (or upon repossession) the rights of the Buyer to obtain ownership or any other interest in the Goods shall cease.
- 8.4** Until such time as PJL has received payment in full for the Goods then the Buyer shall hold any proceeds from the sale or disposal of the Goods on trust for PJL.
- 8.5** Prior to title passing, the Buyer acknowledges and agrees that it will grant to PJL a security interest in the Goods and their proceeds as detailed in clause 14 of these Terms. PJL may register a security interest under the *Personal Property Securities Act 2009 (Cth)* ("PPSA") in relation to the Goods and any proceeds arising in respect of any dealing in the Goods. The Buyer acknowledges that any purchase by it on credit terms from PJL, or any retention of title supply pursuant to these Terms, attaches on delivery of the relevant Goods and constitutes a purchase money security interest under the PPSA.
- 8.6** If the Quote expressly permits the Buyer to on-sell any Goods prior to title passing, the Buyer may do so in the ordinary course of its business provided that the Buyer pays the proceeds into a separate bank account and holds them as trustee for PJL.
- 8.7** To the extent permitted by law, the Buyer waives its rights or entitlements to any verification statements or other notices or communications that may be necessary, required or desirable under the PPSA.

- 8.8** PjL shall have a lien over any of the Buyer's other goods in PjL's possession or under PjL's control for all amounts claimed due and payable to PjL until payment is received in full, cleared funds without deduction or set-off.
- 8.9** Neither party may register, sell, dispose of or otherwise deal in any security interest in the Goods or proceeds from any dealing in the Goods other than as permitted by this clause and clause 14 of these Terms.

## **9. LIMITATION OF LIABILITY**

- 9.1** To the extent permitted by law, PjL excludes all liability, whether in breach of contract, tort, negligence, breach of statutory duty or warranty, contribution or strict liability or under an indemnity or any other basis in law or equity to the Buyer arising from and in connection with the Goods and/or Services except to the extent set out in clauses 8 and 8.2.
- 9.2** Provisions of the *Competition and Consumer Act 2010 (Cth) (as amended)* and other statutes from time to time in force cannot be excluded, restricted or modified or can only be restricted or modified to a limited extent. The Terms must be read and construed subject to any such statutory provisions. If any such statutory provisions apply, then to the extent to which PjL is entitled to do so, its liability under those statutory provisions will be limited at its option to:
- a) the replacement of the Goods or the supply of equivalent Goods;
  - b) the repair of the Goods;
  - c) the payment of the cost of replacing the Goods or of acquiring equivalent Goods; or
  - d) the payment of the cost of having the Goods repaired.
- 9.3** If clause 9.1 is found to be invalid or unenforceable, the Buyer acknowledges that, in no circumstances will PjL's liability to the Buyer, whether in breach of contract, tort, negligence, breach of statutory duty or warranty, contribution or strict liability or under an indemnity or any other basis in law or equity exceed the price.
- 9.4** The Buyer acknowledges and agrees that PjL will not be liable to the Buyer whether in breach of contract, tort, negligence, breach of statutory duty or warranty, contribution or strict liability or under an indemnity or any other basis in law or equity for any Consequential Loss.
- 9.5** To the extent permitted by law the Buyer acknowledges and agrees that all causes of action it may have against PjL, arising out of or in connection with the supply of the Goods or Services under the Contract will expire unless brought within one month of the time of accrual thereof.

## **10. INDEMNITY AND INSURANCE**

- 10.1** The Buyer indemnifies PjL against all claims, actions, proceedings, liabilities, expenses, losses or damages including, with limitation, claims by way or subrogation by any insurer, any personal injury, death or property damage that arises from the Buyer's use of the Goods. The Buyer indemnifies PjL against any claims made by a third party in respect of negligence, personal injury or death arising in relation to the Goods and/or Services.
- 10.2** From the time that risk in the Goods transfers to the Buyer and continuing until title also transfers in accordance with the Terms, the Buyer must insure the Goods with an insurance company with an S&P Financial rating of not less than "A" for their full replacement value against loss or damage including but not limited to fire, malicious damage, theft and transit risks.
- 10.3** The insurance required under clause 10.2 must cover the respective rights and interests of the Buyer and PjL (as owner), note the interests of PjL as owner if required by PjL, and include:

- a) a cross-liability clause, to the intent that each insured party shall be deemed to be separate insureds under the policy;
  - b) an express provision requiring the insurer to notify PJL if the policy of insurance is not renewed, lapses or is cancelled midterm; and
  - c) an acknowledgement from the insurer that in the event of loss or damage to the Goods, all monies derived from any insurance settlement will be used to either repair or replace the Goods. Such determination will be at the sole discretion of PJL.
- 10.4** The Buyer must not do or permit or allow to be done anything which might or could prejudice any insurance of the Goods.
- 10.5** Whenever requested by PJL, the Buyer will promptly provide PJL with copies of the certificates of currency for insurances required under this Contract.
- 10.6** The Buyer is responsible for and must pay any excess or deductible under insurance policies required by the Terms to the extent of its contribution to the loss or damage.
- 10.7** If the Buyer fails to insure the Goods in accordance with clause 10.2 and 10.3, PJL may, but is not obliged to, procure and maintain such insurance and the cost of doing so will be a debt due and immediately payable from the Buyer to PJL.
- 10.8** The Buyer must promptly inform PJL in writing of any event or circumstance that may give rise to a claim under insurance required by clause 10.3 and keep PJL informed of subsequent developments and take all reasonable steps to ensure a prompt and favourable settlement of the claim.

## **11. TERMINATION FOR CAUSE**

- 11.1** PJL may terminate the Contract, or any part of it, immediately by giving written notice to the Buyer if the Buyer:
- a) commits a material breach of the Contract which is not remedied to PJL's satisfaction within ten (10) days of written notice from PJL; or
  - b) fails to take Delivery pursuant to clause 6, which is not remedied five (5) days after receipt of written notice from PJL.
  - c) is the subject of an insolvency event meaning:
    - i. the Buyer becomes insolvent or is otherwise unable to pay its debts as and when they fall due;
    - ii. proceedings are commenced to appoint an external administrator or liquidator to the Buyer;
    - iii. the Buyer is placed under official management or administration;
    - iv. the Buyer is presumed to be insolvent under the *Corporations Act 2001 (Cth)* following a statutory demand; or
    - v. circumstances occur which, in PJL's sole discretion, indicate the Buyer's inability to pay.
- 11.2** If the Contract is terminated under clause 11.1, the Buyer must, in addition to any other damages recoverable at law, pay to PJL as compensation for termination:
- a) the actual costs of termination, including:
    - i. the cost of any equipment, parts, components and materials ordered by PJL which it is liable to accept and cannot reasonably avoid or cancel;
    - ii. any costs of losses arising due to the cancellation or termination of third party contracts including contract break-costs and cancellation fees;

- iii. reasonable demobilisation costs and any additional transport, freight, handling, packaging, consumables, insurance or maintenance costs; and
- iv. any other costs incurred by PJL up to the time of termination.

**11.3 If:**

- a) any money payable to PJL becomes overdue, or in PJL's opinion the Buyer will be unable to meet its payments as they fall due; or
- b) the Buyer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for benefit of its creditors; or
- c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer: then without prejudice to PJL's other remedies at law,

PJL shall be entitled to suspend all or any part of its performance of the Contract without prejudice to any other remedies it may have, and all amounts owing to PJL shall, whether or not due for payment, immediately become payable.

**12. TERMINATION FOR CONVENIENCE**

- 12.1** PJL can terminate the Contract for its convenience by giving thirty (30) days written notice to the Buyer. PJL shall not be liable to the Buyer for any loss or damage whatsoever arising from such termination.
- 12.2** If no Goods and/or Services have been supplied to the Buyer before receipt of a termination for convenience notice, PJL will refund any deposit paid.
- 12.3** Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

**13. INTELLECTUAL PROPERTY**

- 13.1** Each party licenses to the other party its pre-existing Intellectual Property that is not created predominantly for the purpose of the Order, whether coming into existence before or after the date of the Order, to the extent necessary to enable the other party to supply, operate or use the Goods or the Services as the case may be.
- 13.2** Ownership of all Intellectual Property discovered or coming into existence as a result of, for the purposes of or in connection with, the supply of the Goods and/or Services in accordance with the Contract vests in and will be the property of PJL ("Contract IP").
- 13.3** PJL grants to the Buyer a world-wide, non-exclusive, irrevocable, royalty-free licence to use the Contract IP for the purposes of operating or using the Goods and/or Services. The licence is sub-licensable by the Buyer to the Buyer's contractors only to the extent required for the operation, maintenance and use of the Goods.
- 13.4** Each party warrants to the other that it indemnifies the other against any costs or losses in connection with any breach of third-party Intellectual Property save to the extent caused by the other party.
- 13.5** The Buyer acknowledges and agrees that, except as expressly permitted under these Terms, it shall not, and shall not permit any third party to, manufacture, reproduce, modify, reverse engineer, or create derivative works of the Goods, any part thereof, or any Contract IP or pre-existing IP licensed under these Terms. The Buyer shall not use the Contract IP for the purpose of developing, manufacturing, or procuring similar or competing goods from any third party. Any such unauthorised use shall constitute a material breach of these Terms.



## 14. SECURITY INTEREST AND PPSA REGISTRATION

### 14.1 Security Interest

- a) the Buyer and PJL acknowledge that these Terms and Conditions constitute a Security Agreement and give rise to a Purchase Money Security Interest (PMSI) in favour of PJL over the goods and services supplied or to be supplied to the Buyer, as Grantor, pursuant to these Terms until full payment has been received
- b) PJL's security interest extends to all proceeds derived from the sale, lease, or other disposal of the Goods.

### 14.2 Registration and Priority

- a) The Buyer acknowledges that PJL may register its PMSI under applicable personal property security laws, including but not limited to the Personal Property Securities Register (PPSR).
- b) The Buyer agrees to do all things necessary to assist PJL in perfecting and maintaining its security interest, including signing documents and shall provide to PJL on request, as reasonably required, all information PJL may require to register a financing statement or financing charge statement on the PPSR.
- c) The Buyer waives its rights to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Buyer, as Grantor, to PJL.

### 14.3 Restrictions on Buyer

- a) Until full payment is made:
  - i. The Buyer must not grant any other security interest in, lease, sell, or otherwise dispose of the Goods without PJL's prior written consent.
  - ii. not take possession of Goods by way of transfer of Goods to (other than in the sale of Goods in the ordinary course of business), any enterprise other than the one acknowledged above without first notifying PJL;
  - iii. The Buyer must ensure the Goods remain identifiable and, where practicable, maintain them in their original form.
  - iv. The Buyer must not change its name in any form or other details on the PPSR without first notifying PJL;

### 14.4 Default and Repossession

- a) If the Buyer fails to make any payment when due or breaches these Terms, PJL may:
  - i. Enforce its rights under personal property security laws, including repossession of the Goods.
  - ii. Enter the Buyer's premises (or any location where the Goods are stored) to take possession of the Goods without liability for trespass or damages, to the extent permitted by law.
- b) The Buyer agrees to indemnify PJL on demand for all costs and expenses, including legal costs and expenses on a solicitor/client basis, associated with the:
  - i. Registration or amendment or discharge of any Financing Statement registered by or on behalf of PJL; and
  - ii. Enforcement or attempted enforcement of any Security Interest granted to PJL by the Buyer.

### 14.5 Continuing Security

- a) The Buyer agrees that this PMSI survives termination of these Terms until all amounts owed are paid in full.

- 14.6** In consideration of PJL agreeing to supply the Goods/and/or services, the Buyer 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 Buyer either now or in the future, to secure the performance by the Buyer of its obligations under these TERMS AND CONDITIONS (including, but not limited to, the payment of any money).
- 14.7** Where the Buyer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Buyer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to PJL or PJL's nominee to secure all amounts and other monetary obligations payable under these TERMS AND CONDITIONS. The Buyer and/or the Guarantor acknowledge and agree that PJL (or PJL's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.
- 14.8** Should PJL elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Buyer and/or the Guarantor shall indemnify PJL from and against all of PJL's costs and disbursements including legal costs on a solicitor and own Buyer basis.
- 14.9** The Buyer irrevocably appoints PJL as the Buyer'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 Buyer's behalf.

## **15. CONFIDENTIALITY**

- 15.1** The Terms and the provisions of all Contracts are considered Confidential Information and must not be disclosed by Buyer to any third party without PJL's prior written consent unless such disclosure is required by law or by the requirements under Section 275 (1) of the PPSA for the purpose of registering a security interest.
- 15.2** The Buyer must not, and must ensure that the Buyer's Personnel do not, without the prior written approval of PJL, use Confidential Information for any purpose other than as necessary for the supply of the Goods or performance of the Services under these Terms and/or any relating Contract, or otherwise disclose any Confidential Information, other than to the extent such disclosure is expressly required by Law or by the requirements under the PPSA.

## **16. BUYER'S RESPONSIBILITIES**

- 16.1** It is the sole responsibility of the Buyer to;
- a) obtain any Approvals; and/or
  - b) comply with any relevant Australian Standards (or if the Goods are to be used in a country other than Australia, that country's applicable legal and regulatory standards) that are required for the installation or use of the Goods.
- 16.2** Any fees applicable will be the sole responsibility of the Buyer.

## **17. DISPUTES**

- 17.1** If either party wishes to raise a dispute or difference in connection with the Contract, it must promptly give the other notice in writing and thereafter, as a condition precedent to the commencement of legal proceedings:
- a) within fourteen (14) days of a party giving notice of a dispute, the other party must provide to the first party a written response stating its position and

- b) within fourteen (14) days of that response, the respective involved managers must meet in person at least once to try to resolve the dispute in good faith.

## 18. LAW AND JURISDICTION

- 18.1 The Contract is governed by and will be construed in accordance with the laws of the state of New South Wales and the Commonwealth of Australia and PIL takes no responsibility for changes in the law which affect the Goods supplied.
- 18.2 The *United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980)* does not apply to the Contract.

## 19. AMENDMENT

- 19.1 Any amendments to the Terms shall be in writing and if otherwise shall not be binding upon PIL. If any of the provisions of this Contract are unlawful or invalid by reason of any applicable statute or rule of law, then such provision shall be severed from the rest of this Contract which shall remain valid and binding on both parties.

## 20. SUBCONTRACTING AND ASSIGNMENT

- 20.1 The Buyer cannot assign, novate or transfer, the Contract or any payment, obligation, right, benefit or interest it has under the Contract without the prior written consent of PIL.
- 20.2 PIL may assign this Contract to any of its related entities and subcontract any part of its obligations under this Contract without the consent of the Buyer.

## 21. ENTIRE AGREEMENT

- 21.1 This Agreement constitutes the entire agreement between the parties relating in any way to its subject matter, except where separate, a specific, identifiable and valid PIL contract, for a particular project is in place. In the event of any inconsistency between this Agreement and a specific project contract, the terms of the project contract shall prevail. All prior negotiations, agreements, communications, understandings and representations about the subject matter of the Contract are of no effect. The Buyer warrants and acknowledges that it relies solely upon its own skill and judgement in entering into the Contract.

## 22. FORCE MAJEURE

- 22.1 If PIL is prevented either directly or indirectly from performing any of its obligations under the Contract by reason of Force Majeure, it may by notice to the Buyer either extend the time for Delivery, or terminate the Contract, and the Buyer will have no claim against PIL for damages or any other remedy.

## 23. SERVICE OF DOCUMENTS

- 23.1 The Buyer acknowledges that service of all documents will be either:
  - a) prepaid postal addressed to the address nominated on the Commercial Credit Application form, unless a new address is provided by the Buyer and such new address is acknowledged by return in writing from the supplier. Note the Buyer expressly acknowledges that service is deemed to be effected after the expiration of two (2) working days from date of posting the documents.
  - b) E-mail to the e-mail address provided by the Buyer.

## **24. TELEPHONE ORDERS**

**24.1** All telephone orders are to be immediately confirmed in writing by the Buyer. In the event the confirmation varies from that recorded and processed by PJL, then PJL's records shall prevail.

## **25. ACCESS TO SITE**

**25.1** The Buyer at all times is responsible for ensuring suitable access to the site. The Buyer further indemnifies and save harmless PJL, and/ or its servants or agents against any loss or damage in the event the Buyer fails to provide suitable access to site for delivery, and or whilst on site working.

## **26. GENERAL**

**26.1** If the Buyer is more than one person or entity, each person or entity (as applicable) shall be jointly and severally liable to PJL under this Agreement and/or any related Contracts.

**26.2** Each party must bear its own legal, accounting and other costs of and incidental to the preparation and entering into the Contract.

**26.3** Nothing constitutes a joint venture, agency, partnership or other fiduciary relationship between PJL and the Buyer.

**26.4** PJL may only waive a requirement or breach of the Contract in writing signed by it, and any such waiver is limited to the instance referred to.