

CREDIT APPLICATION TERMS

The parties agree:

1. PROVISION OF GOODS & SERVICES

- (a) DPG Australia and the Applicant agree that DPG Australia will provide the Goods and/or Services to the Applicant on the terms and conditions contained in this Agreement.
- (b) Each time the Applicant requires DPG Australia to provide the Goods and/or Services, the Applicant must submit a Purchase Order to DPG Australia. DPG Australia may accept or reject a Purchase Order in its discretion. Any accepted Purchase Orders shall form part of and be governed by the terms of this Agreement.
- (c) In the event of any inconsistency between this Agreement and any Purchase Order, the terms contained in the Purchase Order will prevail to the extent of such inconsistency.

2. PAYMENT

- (a) All quotes are ex-works, in Australian dollars and excluding GST and any other taxes, duties, customs and excise charges.
- (b) Unless otherwise stated in a Purchase Order:
 - (i) DPG Australia will issue a Tax Invoice for the fees for Goods and/or Services (as indicated in the Purchase Order) to the Applicant monthly in arrears; and
 - (ii) the Applicant will pay DPG Australia the amount stated on the Tax Invoice for the Goods and Services within 21 days of the date of the Tax Invoice, or will otherwise make payment on any other day nominated by DPG Australia (irrespective of when the Tax Invoice is issued).
- (c) The Applicant will also pay to DPG Australia, on demand, on a full indemnity basis, all amounts that DPG Australia may, at its absolute discretion, expend or incur (including legal costs on a solicitor and own client basis) as a result of the Applicant defaulting on any of the terms of this Agreement.
- (d) If payment is not made in accordance with this clause 2, DPG Australia at its entire discretion may require the Applicant to pay DPG Australia interest on all outstanding monies from the due date until the date of payment at the Reserve Bank of Australia Cash Rate accruing daily, subject to change from time to time by written notice to the Applicant at the absolute discretion of DPG Australia. The obligation to pay interest survives termination of this Agreement.
- (e) If payment is not made in accordance with this clause 2, DPG Australia may:
 - (i) refuse to supply any further part of the Goods and/or perform any further Services to/for the Applicant until all outstanding monies, including any accrued interest, is paid in full; or
 - (ii) terminate this Agreement whereupon the full price for the Goods and/or Services then supplied, whether or not the time for payment under this Agreement has arrived, will be immediately due and payable.
- (f) The Applicant may not withhold payment or make any deduction from any amount owing without DPG Australia's prior written consent, irrespective of any claim the Applicant may have against DPG Australia for any thing or matter whether related to the provision of the Goods and/or Services or not.
- (g) DPG Australia reserves the right to change the price of the Goods and/or Services it provides to the Applicant from time to time without notice, including without limitation when DPG Australia's suppliers vary the costs of the materials that they supply to DPG Australia.

- (h) All prices quoted by DPG Australia are the actual amounts payable to DPG Australia free of all deductions and set off whatsoever and the Applicant will be responsible for all tariffs, taxes, import duties and all other charges and payments which may be levied, charged or assessed or imposed in respect of the Goods.

3. CREDIT LIMIT

- (a) DPG Australia is not obliged to provide any further Goods or perform any Services for the Applicant once the Credit Limit has been reached.
- (b) DPG Australia may, at its option, provide further Goods to or perform Services for the Applicant, where to do so will result in the Credit Limit being exceeded and the Applicant agrees that DPG Australia is expressly authorised to provide those Goods or Services and this Agreement will continue to apply in full to all monies owing.
- (c) DPG Australia is under no obligation to advise the Applicant when the Credit Limit has been reached or exceeded.

4. RIGHT TO REFUSE FURTHER CREDIT OR VARY THE CREDIT LIMIT

- (a) DPG Australia may at any time, for any reason whatsoever:
 - (i) vary the Credit Limit of the Applicant to increase or decrease the Credit Limit; or
 - (ii) refuse further credit to the Applicant,without any liability to the Applicant whatsoever.

5. WARRANTIES

- (a) To the maximum extent permitted by law and that can be contracted out of, the parties agree that DPG Australia gives no representations, warranties nor has any rights or obligations (including anything under the *Competition and Consumer Act 2010* (Cth)) in respect of the Goods supplied and Services performed to/for the Applicant.
- (b) The warranties contained in clause 5(c) are additional to warranties implied by law. Each of the warranties will be read and construed as a separate and independent warranty and will not be limited by reference to each other. All warranties will be valid at all times during the term of the Agreement and will be continuing warranties which will survive the termination or expiration of this Agreement.
- (c) The Applicant warrants to DPG Australia that as at the date of this Agreement and for the duration of this Agreement:
 - (i) the information contained in this Agreement is true and correct and it has disclosed all relevant information to DPG Australia to assess the credit-worthiness of the Applicant;
 - (ii) it has the legal right and power to enter into this Agreement;
 - (iii) the execution, delivery and performance of this Agreement by the Applicant has been duly and validly authorised by all necessary corporate action on its part;
 - (iv) this Agreement is a valid and binding Agreement on the Applicant, enforceable in accordance with its terms;
 - (v) the Applicant is not bankrupt or insolvent and no receiver, liquidator, administrator or receiver and manager has been appointed over any part of its assets and no such appointment has been threatened;
 - (vi) and no proceedings have been brought or threatened for the purpose of bankrupting or winding up the Applicant;
 - (vii) no partner, director or shareholder of the Applicant is bankrupt, a discharged bankrupt or in any form of receivership, administration or liquidation; and
 - (viii) it has the capacity to make the payment in accordance with this Agreement.

6. CONFIDENTIAL INFORMATION

The Applicant acknowledges that the Applicant may become acquainted with or have access to Confidential Information, and agrees to maintain the confidence of the Confidential Information and to prevent its unauthorised disclosure to or use by any other person, firm or company.

7. PERSONAL INFORMATION

- (a) DPG Australia is bound by the *Australian Privacy Principles in the Privacy Act 1988* (Cth) in dealing with Personal Information provided by the Applicant.
- (b) The Applicant acknowledges and agrees that the Applicant may receive Personal Information of another person in the course of business with DPG Australia and agrees that any such Personal Information must only be used, disclosed or otherwise dealt with in accordance with the Australian Privacy Principles.

8. NO ASSIGNMENT

- (a) The Applicant must not transfer or assign its rights under this Agreement to anyone else, without the prior written consent of DPG Australia, which may be granted or withheld by DPG Australia in its sole, absolute and unfettered discretion. The Applicant must provide any information DPG Australia requires to consider whether to grant its consent.
- (b) Any change in 50% or more of the shareholding of the Applicant will constitute a deemed assignment which requires DPG Australia's prior written consent in accordance with clause 8(a).
- (c) The Applicant acknowledges and agrees that DPG Australia may transfer, assign or otherwise dispose of its interest in this Agreement upon giving written notice to the Applicant.



9. OWNERSHIP AND ASSIGNMENT

- (a) Notwithstanding anything to the contrary express or implied in this Agreement, the parties agree that DPG Australia retains full title to the Equipment and title will not at any time pass to the Applicant. The Equipment is hired to the Applicant for the period set out in a Purchase Order, and may be collected or inspected by DPG Australia at any time. The Applicant grants to DPG Australia and its representatives a licence to enter any property where the Equipment may be in order to take possession or inspect such Equipment at any time that DPG Australia wishes. The Applicant may only use the Equipment in its business, and may not sell, transfer, lease deal with in a way that is contrary to DPG Australia's ownership or otherwise encumber the Equipment. The Applicant must only use the Equipment in accordance with DPG Australia's directions. The Applicant is responsible for returning the Equipment at the completion of the hire in the same condition as when it was delivered, fair wear and tear excepted, and the Applicant must maintain adequate insurance for the Equipment for its replacement value and note DPG Australia as an interested party on the insurance policy.
- (b) Notwithstanding anything to the contrary express or implied in this Agreement, the parties agree that DPG Australia retains full title to the Goods and title will not at any time pass to the Applicant until the purchase price for the Goods and all other amounts owing in respect of the Goods are paid to DPG Australia notwithstanding:
 - (i) the delivery or collection of the Goods to/by the Applicant (as the case may be);
 - (ii) installation in or attachment of the Goods to the Applicant's property; and/or
 - (iii) the possession and use of the Goods by the Applicant.
- (c) The Applicant acknowledges and agrees that:
 - (i) it will not agree, attempt, offer or purport to sell, assign, sub-let, lend, pledge, mortgage, let, hire or otherwise part or attempt to part with personal possession of or otherwise deal with the Goods without the express written consent of DPG Australia;

- (ii) it will, if requested by DPG Australia, return the Goods to DPG Australia following non-fulfilment of any obligation of the Applicant (including payment of monies) without limiting any other right DPG Australia may have;
- (iii) it will deliver up the Goods to DPG Australia upon demand by DPG Australia and give DPG Australia or its agents or authorised representatives the right to enter any premises occupied by the Applicant and any premises where it believes any Goods may be stored (without liability for trespass or any resulting damage) and to use the name of the Applicant and to act on its behalf, if necessary, to recover possession of the Goods and agrees to indemnify DPG Australia and its agents and/or authorised representatives from any damage, injury and/or loss arising from such recovery or attempted recovery of the Goods from the Applicant's possession or control;
- (iv) it holds the proceeds, book debts and accounts receivable arising from selling or hiring of the Goods on trust for and as agent for DPG Australia immediately when they are receivable or are received; and
- (v) DPG Australia may recover as a debt due and immediately payable by the Applicant all amounts owing by the Applicant to DPG Australia in any respect even though title to the Goods has not passed to the Applicant.

10. PERSONAL PROPERTY SECURITIES

10.1. GENERAL

The Applicant acknowledges and agrees that notwithstanding any other provision of this Agreement:

- (a) the PPSA applies to any supply of Goods and Equipment by DPG Australia to the Applicant;
- (b) the Equipment the Applicant is receiving from DPG Australia is not to be used as inventory;
- (c) by agreeing to and/or accepting or adopting this Agreement the Applicant grants to DPG Australia:
 - (i) a purchase money security interest in the Goods (on the basis that the Goods are sold on retention of title terms) and Equipment (to the extent the hire of the Equipment is a PPS Lease); and
 - (ii) a security interest over all present and after-acquired property of the Applicant ("**Applicant's Property**"),

to secure DPG Australia's interest in the Goods, Equipment and all monies owing or payable by the Applicant under this Agreement and any other moneys payable by the Applicant to DPG Australia from time to time on any account whatsoever. The Applicant agrees that DPG Australia may apply any payments received from the Applicant as DPG Australia sees fit, and notwithstanding any prior application, DPG Australia may apply amounts received at DPG Australia's discretion;
- (d) if a purchase money security interest is not able to be claimed by DPG Australia in respect of the Goods or Equipment for any reason, DPG Australia will have a security interest in the Goods or Equipment;
- (e) the Applicant agrees that DPG Australia's security interest in Goods, Equipment and the Applicant's property covered by this Agreement may be registered on the PPS Register and the Applicant agrees to do all things necessary and required by DPG Australia to effect registration of DPG Australia's security interest on the PPS Register in order to give DPG Australia's security interest the best priority possible and anything else DPG Australia requests the Applicant to do in connection with the PPSA without delay;
- (f) the Applicant warrants that all information provided by the Applicant to DPG Australia, including but not limited to the Applicant's details, including the entity, name, ACN or ABN and address set out in the Credit Application Form is correct in all respects and must not

change its name, address or other details set out in the Credit Application Form without providing DPG Australia with at least 20 business days prior written notice;

- (g) the Applicant unconditionally and irrevocably appoints DPG Australia as its attorney to do any of acts and matters set out in this clause 10 in the event that the Applicant fails, delays or declines to execute such documents or do such acts;
- (h) the Applicant agrees that it will not grant a security interest or other encumbrance in the Goods or Equipment whether under the PPSA or any other law to a third party unless it has obtained the prior written consent of DPG Australia, which DPG Australia may refuse to provide or grant in its absolute and unfettered discretion. DPG Australia may request and the Applicant must provide any information that DPG Australia requires, acting reasonably, in order to fully consider whether to grant its consent;
- (i) DPG Australia's security interest in the Goods, Equipment and the Applicant's Property extends to any proceeds in all present and after acquired property including without limitation book debts and accounts receivable arising from the selling or hiring of the Goods, Equipment and/or the Applicant's Property by the Applicant;
- (j) it has received value as at the date of first delivery of the Goods and/or provision of the Services and has not agreed to postpone the time for attachment of the security interest (as defined in the PPSA) granted to DPG Australia under this Agreement;
- (k) the Goods and Equipment are located in Australia at the date of the supply of the Goods and Equipment and the Applicant warrants that the Goods and Equipment will remain located in Australia for the duration of the Agreement;
- (l) neither DPG Australia nor the Applicant will disclose any information to any interested person unless required to do so under the PPSA;
- (m) the Applicant waives its right under the PPSA:
 - (i) to receive a copy of any verification statement, financing change statement or any notice that DPG Australia intends to sell the Goods and/or the Applicant's Property or to retain the Goods and/or the Applicant's Property on enforcement of the security interest granted to DPG Australia under this Agreement or any other notice under the PPSA unless the notice is required to be given by the PPSA and cannot be contracted out of;
 - (ii) to object to a proposal by DPG Australia to dispose of or purchase or retain the Goods, Equipment and/or the Applicant's Property in satisfaction of any obligation owed by the Applicant to DPG Australia;
 - (iii) to receive a statement of account following the sale of the Goods and/or the Applicant's Property; or
 - (iv) to redeem the Goods and/or the Applicant's Property;
- (n) it will not give (or allow any person to give) to DPG Australia a written demand requiring DPG Australia to register a financing change statement under the PPSA or enter into (or allow any other person to enter into) the PPS Register a financing change statement under the PPSA; and
- (o) a default under any other security agreement under which it has granted a security interest to any other party in respect of the Goods is deemed to be a breach of this Agreement.

10.2. REQUESTS FOR INFORMATION

The parties agree that DPG Australia is not required to respond to a request made under Section 275 of the PPSA and that neither party will disclose information of the kind set out in Section 275(1) of the PPSA.

10.3. FURTHER SUPPLIES/ SERVICES

The parties acknowledge and agree that any supply of Goods, Equipment or performance of Services of any kind by DPG Australia to the Applicant which is not specifically set out in the Credit Application Form but for which DPG Australia has or later issues a Tax Invoice or any other

documentation to the Applicant is deemed to form part of the Agreement and is subject to the terms of the Agreement.

10.4. ENFORCEMENT

- (a) The enforcement provisions contained in this Agreement are in addition to any rights available to DPG Australia under the PPSA and apply to the maximum extent permitted by law.
- (b) Without limitation to clause 10.4(a) and any other provision of this Agreement section 125, 129(2), 142 and 143 of the PPSA are contracted out of.

10.5. POWER OF ATTORNEY

The Applicant irrevocably nominates constitutes and appoints DPG Australia and/or its officers and/or its nominees severally to be the true and lawful attorneys of the Applicant on behalf of and in the name of the Applicant to do all things necessary and sign all such documents as may be necessary to deal with the Goods in accordance with the enforcement provisions of this Agreement, the PPSA or otherwise, if the Applicant is in default of this Agreement.

10.6. INTERPRETATION

A term used in this clause 10 is taken to have the meaning defined under the PPSA.

11. DELIVERY OF GOODS

- (a) The Applicant must pay all delivery costs associated with the delivery of the Goods to the Applicant at the same time as the other fees are payable under this Agreement or at other times requested by DPG Australia. Any estimates for delivery provided by DPG Australia are an estimate only, and are subject to change without notice. A change in the delivery costs does not entitle the Applicant to dispute payment of such costs. Any special delivery costs incurred (as determined by DPG Australia) will be charged at cost.
- (b) DPG Australia may in its discretion make part deliveries of Goods as and when it considers this is required, and in that case the Applicant must pay all delivery costs of each individual delivery made in accordance with this Agreement.
- (c) At DPG Australia's sole, absolute and unfettered discretion, delivery of the Goods shall take place when:
 - (i) the Goods are installed in or attach to the Applicant's property; or
 - (ii) the Applicant (or its employees or agents) takes possession of the Goods at DPG Australia's address; or
 - (iii) the Applicant (or its employees or agents) takes possession of the Goods at the Applicant's address (in the event that the Goods are delivered to the Applicant).
- (d) Delivery of the Goods to a third party nominated by the Applicant is deemed to be delivery to the Applicant for the purposes of this Agreement.
- (e) Any times provided by DPG Australia to the Applicant in respect of the delivery of the Goods are estimates only and are non-binding on DPG Australia. Whilst DPG Australia attempts to deliver all Goods on time, sometimes delays are inevitable and DPG Australia will not be responsible for any Losses suffered by the Applicant in the event of delay.
- (f) Purchaser Orders may not be cancelled by the Applicant and to the extent permitted by law, the Applicant is not permitted to return any Goods supplied by DPG Australia without DPG Australia's prior written consent which may be withheld by DPG Australia in its sole and absolute discretion.
- (g) In the event that DPG Australia permits the Applicant to return any Goods supplied by DPG Australia, only Goods in original packing will be accepted. A re-stocking charge of up to 10% plus GST of the total amount stated on the Tax Invoice/s which relate to the Goods will be deducted on Goods returned within 14 days, beyond which a higher charge (at DPG Australia's discretion) will be levied. Without limitation to the above, any Goods

specialty imported, procured or manufactured by DPG Australia for the Applicant can only be returned on such terms and conditions as DPG Australia may agree.

12. PROVISION OF SERVICES

- (a) The provision of Services by DPG Australia to the Applicant will take place at a time agreed between DPG Australia and the Applicant.
- (b) The provision of Services to a third party nominated by the Applicant shall be deemed to be provision of the Services to the Applicant for the purpose of this Agreement.
- (c) Any times provided by DPG Australia to the Applicant in respect of the provision of the Services are estimates only and are non-binding on DPG Australia. Whilst DPG Australia attempts to provide all Services at the agreed times, sometimes delays are inevitable and DPG Australia will not be responsible for any Losses suffered by the Applicant in the event of delay.

13. RISK

- (a) Even if DPG Australia retains ownership of the Goods, all risk for the Goods passes to the Applicant on delivery of the Goods to Applicant or the nominee of the Applicant.
- (b) If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Applicant, DPG Australia is entitled to:
 - (i) receive payment for the Goods; and
 - (ii) receive all insurance proceeds payable for the Goods. The production of these Credit Terms by DPG Australia is sufficient evidence of DPG Australia's rights to receive the insurance proceeds without the need for any person dealing with DPG Australia to make further enquiries.



14. INDEMNITY AND RELEASE

- (a) Except as provided under this Agreement and to the extent permitted by law:
 - (i) the Applicant:
 - (A) releases DPG Australia and its officers, employees, agents and contractors from any and all Claims by the Applicant or any of its officers, employees, agents or invitees;
 - (B) indemnifies DPG Australia and its officers, employees, agents and contractors against any and all Claims made by third parties against DPG Australia;
 - (C) indemnifies DPG Australia and its officers, employees, agents and contractors against any Loss suffered by or incurred by the Applicant, arising from any act, default, omission, negligence or breach of contract or otherwise, by the Applicant or any of its directors, employees, agents, contractors or invitees, except to the extent (if any that):
 - (D) DPG Australia recovers an amount from its insurers in respect of the Claim; or
 - (E) the Loss the subject of the Claim is caused by the fraudulent act or omission of DPG Australia.
 - (ii) DPG Australia is not liable for any Claim or any Loss arising from any event or cause, beyond the control of DPG Australia, and the Applicant indemnifies DPG Australia from any loss that it suffers in this regard, including but not limited to:
 - (A) any act or omission of the Applicant, including any delay caused by the Applicant;

- (B) damage after delivery;
 - (C) any problem caused by misuse, abuse, wear and tear or abnormal movement;
 - (D) goods or appliances made by others;
 - (E) any defect in, or problem caused by, work materials or goods supplied by the Applicant;
 - (F) any problem caused by or contributed to by any modification to the Goods by the Applicant; or
 - (G) any defect caused or contributed to by a failure of the Applicant to follow any procedure recommended by DPG Australia or by the manufacturer of any materials used by DPG Australia in the Goods.
- (b) The Applicant will indemnify and hold harmless DPG Australia, its officers, directors, employees, agents, contractors and parent, subsidiary or affiliated companies, from and against any and all damage, Loss, Claims and demands of any nature caused by or arising out of the acts or omissions of DPG Australia in performing the Services or providing the Goods.
- (c) Nothing in this Agreement is intended to have the effect of excluding, restricting or modifying the application of all or any of the provisions of Part 5-4 of the ACL, or the exercise of a right conferred by such a provision, or any liability of DPG Australia in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the ACL to a supply of goods or services.
- (d) If DPG Australia is liable to the Applicant in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the ACL that cannot be excluded, DPG Australia's total liability to the Applicant for that failure is limited to, at the option of DPG Australia:
- (i) in the case of services, the resupply of the services or the payment of the cost of resupply; and
 - (ii) in the case of goods, the replacement of the goods or the supply of equivalent goods, or the repair of the goods, or the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired.
- (e) Without limitation to the other terms of this Agreement, DPG Australia excludes any liability to the Applicant, whether in contract, tort (including negligence) or otherwise, for any special, indirect or consequential loss arising under or in connection with this Agreement (except to the extent such liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth)).



15. TERMINATION

- (a) DPG Australia may in its absolute discretion, by written notice to the Applicant, immediately terminate this Agreement and/or one or more Purchase Orders (and shall have no liability for any Loss suffered by the Applicant due to the termination):
- (i) if the Applicant fails to make payment in accordance with clause 2;
 - (ii) if the Applicant becomes insolvent;
 - (iii) if the Applicant commits an act of bankruptcy or is made bankrupt;
 - (iv) if the Applicant makes a composition or other arrangement with creditors;
 - (v) if the Applicant assigns assets for the benefit of creditors generally;
 - (vi) being a company, if the Applicant enters into a deed of company arrangement or has a controller, administrator, receiver or receiver and manager appointed;
 - (vii) being a company, if the Applicant goes into liquidation;


- (viii) being a partnership, if the Applicant has a receiver or a receiver and manager appointed;
 - (ix) in the event of Force Majeure (such as if there are issues with DPG Australia's supplier and DPG Australia is unable to supply the agreed Goods); or
 - (x) breaches any warranty or obligation contained in this Agreement or a Purchase Order and fails to rectify the breach within 7 days of being given a notice to do so.
- (b) The Applicant may terminate this Agreement if DPG Australia breaches the terms of this Agreement and fails to rectify the breach within 14 days of being given a notice to do so.
 - (c) The Applicant may terminate an individual Purchase Order if DPG Australia breaches the terms of that Purchase Order and fails to rectify the breach within 14 days of being given a notice to do so.
 - (d) Subject to clause 15(f), upon termination of this Agreement, all existing Purchase Orders shall automatically terminate. The Applicant shall be liable to pay to DPG Australia for all Goods and/or Services supplied by DPG Australia under such Purchase Orders up until the date of termination, and such amounts shall be a debt immediately due and owing.
 - (e) The termination of a Purchase Order does not affect any other Purchase Order/s which shall continue. Upon termination of a Purchase Order the Applicant shall be liable to pay to DPG Australia for all Goods and/or Services supplied by DPG Australia under that Purchase Order up until the date of termination, and such amounts shall be a debt immediately due and owing.
 - (f) Either party may terminate this Agreement at any time on giving the other party 30 days written notice. Termination under this clause will not take effect until every Purchase Order in place has expired, been fulfilled or is otherwise terminated in accordance with the above terms.
 - (g) The rights and remedies of the parties contained in this clause 15 are in addition to any other rights and remedies by law, in equity or under this Agreement.



16. GUARANTEE AND INDEMNITY

- (a) In consideration of DPG Australia, at the request of the Guarantor, entering into this Agreement with the Applicant the Guarantor covenants and agrees with DPG Australia that:
 - (i) Notwithstanding that as between the Guarantor and the Applicant the Guarantor may be a surety only, as between the Guarantor and DPG Australia the Guarantor is a principal debtor.
 - (ii) The Guarantor will be liable jointly and severally with the Applicant (and with each other Guarantor if there is more than one Guarantor) for the due and punctual payment of all moneys to be paid by the Applicant under this Agreement and for the due performance and observance by the Applicant of the credit terms and such liability will not be reduced or affected by the death insolvency liquidation or dissolution of the Applicant or the Guarantor or any of them.
 - (iii) The Guarantor indemnifies DPG Australia from and against all Loss, damage costs (including all costs payable by DPG Australia to a solicitor on a solicitor and own client basis) and expenses which DPG Australia may suffer or incur in consequence of any breach or non-observance of the credit terms by the Applicant and the Guarantor agrees that the Guarantor will remain liable to DPG Australia under this indemnity notwithstanding as a consequence of any breach or non-observance DPG Australia has exercised any of its rights under this Agreement.
 - (iv) On any default or failure by the Applicant to observe and perform any of the credit terms the Guarantor will immediately (without the need for any demand to be made) pay all moneys and make good to DPG Australia all damages costs (including all costs payable by DPG Australia to a solicitor on a solicitor and

own client basis) and expenses sustained or incurred by DPG Australia by reason of or in consequence of any breach or non-observance of the credit terms by the Applicant and the Guarantor will also pay to DPG Australia interest at the Reserve Bank of Australia Cash Rate accrued daily from the due date for payment until the date of payment (except on interest under clause 2(e) of this Agreement).

- (v) The liability of the Guarantor under this guarantee and indemnity will not be affected by the granting of time or any other indulgence to the Applicant or by any compromise abandonment waiver variation or by any other thing which under the law relating to sureties would or might but for this provision release the Guarantor in whole or in part from its obligations under this guarantee and indemnity.
- (vi) To the fullest extent permitted by law the Guarantor hereby waives such of its rights as surety or indemnifier (legal equitable statutory or otherwise) as may at any time be inconsistent with any of the provisions of this guarantee and indemnity.
- (vii) The Guarantor hereby:
 - (A) charges all of its legal and beneficial interest in all of its property, including but not limited to its real property and personal property (as that term is defined in the PPSA), including property acquired after the date of this Agreement, in favour of DPG Australia, whether or not demand has been made on the Applicant by DPG Australia;
 - (B) agrees to execute all documents and do all things necessary, upon request by DPG Australia, to register DPG Australia's interest in the Guarantor's property as granted by this clause 16, whether by a mortgage over the Guarantor's real property or by registration of a security interest on the PPS Register or otherwise; and 
 - (C) irrevocably appoints DPG Australia and/or its officers and/or its nominees severally to be the true and lawful attorneys of the Guarantor on behalf of and in the name of the Guarantor to do all things necessary to register DPG Australia's security over the Guarantor's property granted by this clause 16.
- (viii) If the charges created by sub-clause 16(a) are or become void or unenforceable, subclause 16(a) may be severed from this Agreement and the Agreement shall continue in full force and effect and the severance shall not effect on its validity and the Guarantor will not be released from its obligations in whole or in part and DPG Australia's rights and remedies against the Guarantor shall not be effected by such severance.
- (ix) The enforceability of this guarantee and indemnity against the Guarantor is not conditional, contingent or dependent in any way upon the validity or enforceability of this guarantee and indemnity against any other person or execution of this contract or this guarantee and indemnity by any other person.
- (x) The Guarantor does not execute this guarantee and indemnity as a result of or by reason of any promise representation statement information or inducement of any nature or kind given or offered to the Guarantor by DPG Australia or on DPG Australia's behalf whether in answer to any enquiry by or on behalf of the Guarantor or not and DPG Australia was not prior to the execution of this guarantee and indemnity by the Guarantor, and is not subsequently, under any duty to disclose to the Guarantor or to do or execute any act matter or thing relating to the affairs of the Applicant or its transactions with DPG Australia.
- (xi) In the event of the invalidity of any part or provision of this guarantee and indemnity that invalidity will not affect the validity or the enforceability of any other part or provision of this guarantee and indemnity. If a provision of this guarantee and indemnity is void or unenforceable it must be severed from the guarantee and indemnity and the provisions that are not void or unenforceable are unaffected by the severance.

- (xii) All notices or demands to be given to, made or served upon the Guarantor will be deemed to be duly given to, made or served on the Guarantor if:
 - (A) it is signed by any officer, authorised employee, agent or solicitor of DPG Australia; and
 - (B) it is delivered:
 - (I) to any Guarantor personally; or
 - (II) left at the last known place of business or abode of any Guarantor; or
 - (III) if an address is noted in the Credit Application Form, left at or sent to the Guarantor through the post in an ordinary prepaid envelope addressed to that Guarantor at the address. A notice or demand which is posted will be deemed to have been served on the Guarantor on the second business day following the date of posting.
- (xiii) If there is more than one Guarantor, any notice or demand given to, made or served upon a Guarantor is deemed to be served on each of them.
- (xiv) The Guarantor agrees that its liability to DPG Australia is unlimited notwithstanding that DPG Australia supplies the Applicant with credit in excess of the Credit Limit.
- (xv) The Guarantor acknowledges and agrees that the Guarantor may receive Personal Information of another person in the course of business with DPG Australia and agrees that any such Personal Information must only be used, disclosed or otherwise dealt with in accordance with the Australian Privacy Principles.



17. DEFINITIONS

In this Agreement, unless inconsistent with the context or subject matter, the following words and phrases have the following meanings.

Term	Meaning
ACL	means the Australian Consumer Law (as set out in Schedule 2 to the <i>Competition and Consumer Act 2010</i> (Cth)).
Applicant	means the applicant identified in the Credit Application Form
Applicant's Address for Service	means the email address of the Applicant set out in the Credit Application Form.
Agreement	means the Credit Application Form and these Credit Terms.
Claim	means any claim, action, demand or proceeding however arising (including under contract, statute, common law or equity) in respect of any Loss or alleged Loss.
Confidential Information	means information relating directly or indirectly to DPG Australia, its assets and the operation and affairs of DPG Australia, including without limitation, this Agreement and the Goods and Services.
Credit Application Form	means the Credit Application Form completed by the Applicant.
Credit Limit	means the credit limit per month set out in the Credit Application Form.
Credit Provider	has the meaning given in section 6G of the <i>Privacy Act 1988</i> (Cth).

Term	Meaning
Equipment	means any equipment used by DPG Australia in the provision of the Services or supply of the Goods, including any Equipment that is hired or left at the Customer's premises for the Customer to use in connection with the Goods.
Force Majeure	means an act, omission or circumstance over which DPG Australia could not reasonably have exercised control.
Goods	means any goods supplied by DPG Australia to the Applicant from time to time.
GST	has the meaning given to it in the GST Act.
GST Act	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Loss	<p>includes (without limitation) the following, whether direct or indirect, special or consequential in nature:</p> <ul style="list-style-type: none"> (a) loss, damage, costs (including legal costs on a solicitor and own client basis), action or expense of any kind; and (b) to the extent not covered in the preceding subclause, loss of profits, opportunity, use, revenue, goodwill, bargain, production, sales turnover, income, reputation (or damage to it), employment, corruption or destruction of data, customers, loss relating to or in connection with any other contract, business or anticipated savings, reduction in value, any delay or financing costs or increase in operating costs, or any other financial or economic loss; and (c) anything referred to in the preceding subclauses relating to or arising out of or in connection with: <ul style="list-style-type: none"> (i) personal injury (including death or disease) to the Applicant; (ii) personal injury (including death or disease) to any third party; or (iii) loss of or damage to the property of DPG Australia, the Applicant or any third party; and <p>a breach or non-compliance by DPG Australia or the Applicant with any law.</p>
Personal Information	Has the meaning given to it in the <i>Privacy Act 1988</i> (Cth).
PPSA	means the <i>Personal Property Securities Act 2009</i> (Cth) and its regulations as amended and in force from time to time.
PPS Register	means the Personal Property Securities Register established under the PPSA.
Purchase Order	means a purchase order for Goods and/or Services placed by the Applicant, including orders placed by phone or email, with DPG Australia and which is accepted by DPG Australia in accordance with this Agreement.
Services	means any services supplied by DPG Australia to the Applicant, from time to time, including the supply of Equipment.
Tax Invoice	has the same meaning as in the GST Act.
DPG Australia Pty Ltd (ACN 164 380 045)	means DPG Australia.

Term	Meaning
DPG Australia's Address for Service	means: (a) Address: A, 237 Fleming Road, Hemmant QLD 4174 (b) Email: accounts@dpgaustalia.com


18. INTERPRETATION

In this Agreement unless inconsistent with the context or subject matter:

- (a) A reference to a person includes any other legal entity;
- (b) A reference to a legal entity includes a person;
- (c) Words importing the singular number include the plural number;
- (d) Words importing the plural number include the singular number;
- (e) A reference to a party includes the party's heirs, executors, successors and permitted assigns;
- (f) Clause headings are for reference purposes only and must not be used in interpretation;
- (g) Where any word or phrase is given a defined meaning any other part of speech or other grammatical form concerning the word or phrase has a corresponding meaning;
- (h) A reference to a statute includes all regulations and subordinate legislation and amendments;
- (i) References to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes e-mail;
- (j) A reference to a monetary amount is a reference to an Australian currency amount;
- (k) An obligation of two or more parties binds them jointly and each of them severally;
- (l) An obligation incurred in favour of two or more parties is enforceable by them severally;
- (m) References to time are to local time in Queensland, Australia.
- (n) Where time is to be reckoned from a day or event, the day or event must be excluded, and reference to a month means a calendar month;
- (o) A reference to a business day means any day on which trading banks are open for business in Queensland, Australia; and
- (p) If any time period specified in this Agreement expires on a day which is not a business day, the period shall expire at the end of the next business day.

19. GENERAL

- (a) DPG Australia may vary the terms of the Agreement at any time and will notify the Applicant of the variation by providing 30 days written notice to the Applicant at the Applicant's Address for Service.
- (b) Any notice required to be given in accordance with this Agreement is deemed to be sufficiently given if provided to the Applicant's Address for Service or DPG Australia's Address for Service (as the case may be) and, if it is:
 - (i) delivered by hand, upon which the time of giving notice will be the time of delivery;
 - (ii) sent by pre-paid post, upon which the time of giving notice will be two (2) business days after the date of postage; or
 - (iii) sent by email, upon which the time of giving notice will be the time shown on the email generated by the sending machine identifying proof of transmission to the designated email address.
- (c) The following will constitute proof of receipt:

- (i) if sent by registered post, proof of posting by registered post; or
- (ii) if sent by email, proof of sending.
- (d) This Agreement is governed by the laws of Queensland, Australia and the Commonwealth of Australia which are in force in Queensland, Australia.
- (e) The parties submit to the jurisdiction of the Courts of Queensland, Australia, relevant Federal Courts and Courts competent to hear appeals from them.
- (f) This Agreement contains the entire understanding and agreement between the parties as to the subject matter of this Agreement.
- (g) All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of this Agreement are merged in this Agreement and are of no further effect.
- (h) No oral explanation or information provided by a party to another affects the meaning or interpretation of this Agreement or constitutes any collateral agreement, warranty or understanding.
- (i) No waiver or amendment of a provision of this Agreement is binding unless made in writing and signed by both parties.
- (j) The parties must execute and deliver all documents and must do all things as are necessary for the complete performance of their respective obligations under this Agreement.
- (k) If a provision of this Agreement is void or unenforceable it must be severed from this Agreement and the provisions that are not void or unenforceable are unaffected by the severance.
- (l) The rights and remedies of a party to this Agreement are in addition to the rights or remedies conferred on the party at law or in equity. 
- (m) This Agreement may be executed in any number of counterparts and when executed communication of the fact of execution to the other parties may be made by sending evidence of execution by electronic communications including email.
- (n) Where this Agreement is executed for a party by an attorney, the attorney by executing it declares that the attorney has no notice of revocation of the power of attorney.
- (o) The contra proferentem rule and other rules of construction will not apply to disadvantage a party whether that party put the clause forward, was responsible for drafting all or part of it or would otherwise benefit from it.
- (p) Time is in all cases and in every respect of the essence of this Agreement.