

GENERAL TERMS AND CONDITIONS OF COMMERCIAL CREDIT ACCOUNT, SALE AND SECURITY AGREEMENT

The Commercial Credit Account, Sale and Security Agreement (**Agreement**) constitutes a security agreement pursuant to the PPSA Act. The Company reserves the right to refuse credit, suspend or withdraw credit facilities at any time without explanation or notice.

TERMS

In consideration of the Company providing the facilities of a commercial credit trading account (and not for private use or purpose) the Customer agrees to be bound by and will adhere to these General Terms and Conditions (the receipt of a copy of which is hereby acknowledged) and the Customer fully understands that the Terms include:

- a) retention of title provisions;
- b) the right of the Company to require payment on demand of any amount owing, notwithstanding any previous indulgences;
- c) rights of the Company to recover interest, and fees and other expenses (including legal fees), in default of payment;
- d) terms limiting the liability of the Company for damages, and giving the Company the right to nominate the jurisdiction in which any legal proceedings may be instituted and prosecuted; and
- e) the grant of a security in all and any sale of Goods under this Agreement which the Company may register on the PPSA Register.

1. Definitions

Agreement means Commercial Credit Account, Sale and Security Agreement including all agreement entered into between the Company and the Customer.

Collateral and/or Goods means goods (including equipment) and/or services supplied by the Company to the Customer, or goods and/or services ordered by the Customer but not yet supplied and includes goods described in this Agreement, on any quotation, invoice, purchase order or any other document including any recommendations and advice and over which the Company may intend to register a security interest.

Company means ARA Fire Protection Services Pty Ltd ABN 19 002 051 041.

Customer means the customer identified in the Commercial Credit Account, Sale and Security Agreement.

Mixed Goods means where:

- a) the Customer makes a new object from the Goods, whether finished or not; or
- b) the Customer mixes or otherwise comingles the Goods with other articles, goods or products; or
- c) the Goods become part of another product.

PMSI means Purchase Money Security Interest.

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

PPSA Register means Personal Property Security Register.

Price means either:

- a) the cost of Goods as specifically agreed between the Company and the Customer; or
- b) in the absence of any prior agreement, as set by the Company and shall be subject to change from time to time without notice.

Terms means the General Terms and Conditions contained in this document for the Commercial Credit Account, Sale and Security Agreement.

2. All Agreements

- 2.1 These Terms shall apply in relation to all sales of Goods by the Company to the Customer and to all orders placed with the Company. In the event of any inconsistencies, the Customer acknowledges and agrees that these Terms prevail.
- 2.2 Any additional or different terms and conditions to these Terms provided in any communication from the Customer are rejected by the Company and shall not be effective or binding on the Company unless expressly agreed to by the Company's in writing.

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- 2.3 These Terms are in addition to and in no way intended to limit, vary or exclude any rights conferred by the conditions and warranties implied by the *Competition and Consumer Act 2010* (Cth) or by any similar legislation of a State or Territory in Australia which prohibits such limitation, variation or exclusion.
- 2.4 The Company may by notice, from time to time, vary, amended or superseded these Terms, including any credit limits set by the Company. Unless or except specifically excluded herein, the Company retains any rights and remedies available in any prior or pre-existing agreement.
- 2.5 Prices are subject to change without notice.
- 2.6 Any request from the Customer to the Company for supply of the Goods shall constitute acceptance of these Terms.
- 2.7 The Customer acknowledges that where the Customer consists of more than one party or entity, liability shall be joint and several.
- 2.8 The Customer agrees to execute any document necessary to grant in favour of the Company any security interest over the Customer's present and after acquired property, all monies mortgage over a land or any other security over a land. The Customer also consents to the Company's lodgement of any caveat(s) over any of the Customer's land in any location.
- 2.9 Clerical errors are subject to correction and do not bind the Company.
- 2.10 The Customer's rights under these Terms are not assignable or transferrable, .
- 2.11 None of the Company's agents or representatives, other than an authorised manager or officer, are authorised to make any representations, statements, conditions or agreements, nor is the Company bound by any such unauthorised actions or representations.

3. GST

- 3.1 Trade prices quoted are exclusive of GST. The Customer may pay the Company an additional amount for any GST payable in respect of any taxable supply made under or in connection with the Agreement, provided the Company must provide the Customer with a tax invoice in respect of that taxable supply.
- 3.2 If there is an adjustment event in relation to the taxable supply:
 - a) the Company must refund to the Customer the amount by which the GST paid by the Customer pursuant to clause 3.1 exceeds the adjusted GST on the taxable supply; or
 - b) the Customer must pay to the Company the amount by which the adjusted GST on the supply exceeds the amount of GST paid pursuant to clause 3.1.
- 3.3 Any other taxes (excluding income taxes), duties, fees, charges or assessments of any nature levied by any government authority in connection with the Agreement shall be paid directly by the Customer to the governmental authority concerned. If the Company is required by law or otherwise to pay such a levy and/or fines, penalties or assessments in the first instance or as a result of the Customer's failure to comply with any applicable laws or regulations governing the payment of such levies by the Customer, the customer will indemnify the Company in full and if the Company pays any amount under this clause 3.3 then the Customer shall immediately reimburse the Company upon submission of the Company's invoices.

4. Quotations

- 4.1 Any quotations provided by the Company remain open for acceptance for a period of thirty (30) days from the date of quotation. After this time this quotation will lapse and no longer be capable of being accepted unless the Company, in its absolute discretion, accepts this quotation, or revise the price set out in a quotation.

5. PPSA Act

- 5.1 Where a commercial credit account has been approved, the Customer consents to the Company to register, on the PPSA Register, a security interest in all and any sale of goods and/or services under this Agreement including all of the Customer's present and after-acquired property.
- 5.2 The Customer consents to the Company creating and maintaining a registration on the Register in any required form, in relation to any security interest contemplated or created by the Agreement (including a security interest as defined in the PPSA Act) and agrees to execute any documents, provide all relevant information and co-operate fully with the Company to ensure that the Company has a perfected security interest and, if applicable, PMSI.
- 5.3 The Customer warrants that all purchases under this Agreement are for commercial purposes only and accordingly the *National Consumer Credit Protection Act 2009* (Cth) will not apply.
- 5.4 To the extent permitted by law, the Customer and the Company agree to contract-out of the enforcement provisions of section 115 of the PPSA Act to the extent that the section applies for the benefit of, and does not impose a burden on, the Company.

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- 5.5 The Customer waives its right to receive a notice of a verification statement in relation to a registration by the Company on the PPSR Register and a copy of any financing statement or any financing charge statement registered by the Company in respect of the security interest created by these Terms.
- 5.6 If Chapter 4 of the PPSA Act would otherwise apply to the enforcement of a security interest arising in connection with these Terms, the Customer agrees that the sections 95, 96, 121(4), 125, 130, 132(3)(d), 132(4), 134(1), 135, 142, and 143 of the PPSA Act will not apply to the these Terms.
- 5.7 The Company agrees with the Customer not to disclose any information under section 275(1) of the PPSA Act except in circumstances required by sections 275(7)(a)-(e).
- 5.8 The Customer agrees that, until all monies owing to the Company are paid in full, it shall not sell or grant any other security interest in the collateral without prior written consent of the Company.
- 5.9 The Customer agrees to reimburse the Company, on demand, for all costs and expenses incurred or payable by the Company in relation to registering or maintaining any financing statement, releasing in whole or in part the Company's security interest of any other document in respect of any security interest.

6. Payment

- 6.1 Unless otherwise specified by the Company in writing, payment must be made by the Customer within fourteen (14) days of the date of an invoice issued by the Company. Time for payment for the Goods is otherwise of the essence. In the event an invoice is overdue, the Company may suspend the provision of Goods until payment is made without incurring any liability to the Customer.
- 6.2 Interest will be charged on overdue amounts at the rate of 0.06% per day.
- 6.3 The Customer acknowledges and agrees that it may be required to pay the Company a reasonable surcharge where payment of an invoice is made using a credit card. For the avoidance of doubt, the surcharge payable shall not exceed 2% of the value of the relevant invoice.
- 6.4 The Customer indemnifies the Company from and against all loss incurred by the Company in pursuing any sums owed by the Customer (including where a change of control of ownership of the Customer has occurred), and any loss, including legal and/or collection agency costs of recovery of any overdue amounts shall be recoverable by the Company as a debt due by the Customer.
- 6.5 The Customer shall be liable for, and expressly undertakes to pay all fees (including an administration fee in an amount to be set from time to time by the Company) for all costs incurred as a result of any cheque or electronic banking transaction being dishonoured for whatever reason.
- 6.6 In the event of bankruptcy or insolvency of the Customer, or in the event any proceeding is commenced against the Customer, voluntarily or involuntarily, under the bankruptcy or any insolvency laws, the Company shall be entitled to cancel any order made by the Customer outstanding at any time during the period allowed for filing claims against the Customer, and shall receive reimbursement for its reasonable and proper cancellation charges.
- 6.7 The Company, at its discretion, may retain possession of Goods repaired, modified, inspected, maintained or serviced under this Agreement until the price for Goods is paid in full. If monies owing for Goods are not paid within sixty (60) days from the date of the relevant tax invoice, the Company may, upon not less than seven (7) days' written notice by registered mail or email to the Customer, at the Customer's last known address or email address (as applicable), sell the Goods at public or private sale and apply the net proceeds to the outstanding moneys owing by the Customer.
- 6.8 Any legal action taken for enforcement of recovery of monies may be taken out under the jurisdiction of a court in the State of New South Wales or another State's jurisdiction of a court as deemed appropriate by the Company.

7. Delivery and Risk

- 7.1 Delivery shall be made by the Company at the Customer's expense (in addition to the price payable for Goods) to the Customer's premises or in accordance with the Customer's instruction by such transport as the Company so determines at its discretion. Any dates and times for delivery of Goods advised by the Company are approximate and based upon the Customer providing prompt access to any area or equipment requiring the Company's services and prompt receipt of all the necessary information in respect of the Goods required.
- 7.2 Unless otherwise agreed, all shipments are 'Ex Works' (as defined in INCOTERMS 2020 published by the International Chamber of Commerce which may be revised from time to time) at the Company's premises.
- 7.3 Insurance against all risks whatsoever shall be maintained by the Customer from the time risk and liability for the Goods pass as set out at clause 7.2 and 7.5.
- 7.4 The Company shall not be liable for any loss or damage, including consequential loss or damage, arising from delay in delivery or failure to deliver Goods, either whole or in part.

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- 7.5 All risk and liability for the Goods shall pass to the Customer on delivery of the Goods to the Customer or any third party who is acting on behalf of the Customer.
- 7.6 The Customer shall not be entitled to a reduction in price for Goods subject to delayed delivery, except in the circumstances where the Company, as a gesture of goodwill, offers to reduce the price for the delayed Goods.

8. Installation

- 8.1 Where the Company agrees to install Goods at any premises of the Customer (**Premises**) the following conditions shall apply:
- a) The Customer will provide reasonable access for the Company, its servants, agents and subcontractors to the Premises during the period of installation as may be agreed by the parties to enable the Company to carry out its obligations. The Customer will also provide at its own expense, connection for electricity and any other similar services or utilities required by the Company for the installation of the Goods.
 - b) The Company will be under no liability or responsibility for any loss, damage or expense howsoever incurred by the Customer as a result of:
 - (i) any failure or delay by the Company in performing any of its obligations under the Agreement due to any reason; or
 - (ii) any prohibitions or restrictions under any applicable statutes, bylaws or regulations.
 - c) Any existing defect discovered by the Company in the course of installation shall be the responsibility of the Customer and the Company shall be the sole judge in respect of determining what remedial action is required. The Company may terminate any contract if the remedial action is not completed or taken as instructed, and within the time specified, by the Company without prejudice to its existing rights. Any additional expense incurred by the Company will be the responsibility of the Customer.

9. Fitness for Purpose

- 9.1 The Customer agrees that the Company shall not be liable for any:
- a) representation, promise or undertaking regarding the fitness or otherwise of Goods supplied by the Company unless it is made in writing or implied by law; and
 - b) failure by the Customer to fix, install, erect, or maintain the Goods in accordance with any advice, recommendation, specification, information, assistance or service provided by the Company in relation to Goods sold or manufactured by it.

10. Material Supply

- 10.1 Where the Customer orders a particular brand of product and the product is not available, the Company may in its absolute discretion supply another product with identical or similar properties to that which was ordered (**Equivalent**) and the Customer will be obliged to accept and pay for the Equivalent as if the ordered brand of product had been supplied. The Company will not be under any obligation to notify the Customer of such occurrence. The Customer should note that the use of colour names in any Company document indicate no more than the colour or product supplied or its equivalency.
- 10.2 Subclause 10.1 will not apply in circumstances where the Customer has given the Company notice in writing stating that the Customer will only accept products bearing the brands or trademarks specified in its orders.

11. Warranty and defects

- 11.1 The Company warrants to the Customer that:
- a) the Goods provided under the Agreement will be free from material defects and will be of the kind and quality stipulated in the Agreement; and
 - b) where the Goods take the form of services, that such services will be performed with reasonable care and skill in accordance with any specifications (**Warranty**).
- 11.2 The Warranty shall only apply to defects appearing within six (6) months from the date of completion of or the provision of Goods (**Warranty Period**) following which the Customer is deemed to have accepted the Goods. The conditions of any tests to Goods provided by the Company shall be mutually agreed upon, and the Company shall be notified of, and may be represented at, all tests that may be made.
- 11.3 If the Company breaches the Warranty, provided the Customer has given the Company written notice of such breach within the Warranty Period, the Company's liability is strictly limited to the remedies available under clause 11.6 below, provided that any Goods to be returned are returned to the Company at the Customer's cost. Where the Customer is a 'customer' as defined in the *Competition and Consumer Act*

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2010 (Cth) or the Fair Trading Act of any State or Territory in Australia (as applicable), the Customer may be entitled to a refund of the price paid for the relevant Goods. No interest shall be payable by the Company on any such refund. The Company will not be obliged to rectify defects once the Warranty Period has ceased.

- 11.4 The liability of the Company for any loss incurred by the Customer as a result of the Warranty breach (whether the claim is based on contract or negligence) will not under any circumstance exceed the actual cost of correcting the defect in the relevant Goods. The foregoing shall constitute the exclusive remedy of the Customer and the exclusive liability of the Company.
- 11.5 To the full extent permitted by law, any condition, term, guarantee or warranty which would otherwise be implied in the Agreement is excluded.
- 11.6 Where legislation implies in the Agreement any condition, term, guarantee or warranty (**Mandatory Warranty**), and that legislation avoids or prohibits provisions in a contract excluding or modifying the application or exercise of or liability under such Mandatory Warranty, the Mandatory Warranty is deemed to be included in the Agreement and the liability of the Company for any breach of such Mandatory Warranty is limited, at the absolute discretion of the Supplier, to one or more of the following:
- replacement of the Goods,
 - supply of equivalent Goods;
 - re-supply where the Goods take the form of services performed; or
 - repair of Goods.
- 11.7 The Company's products may be manufactured from steel or other materials which have been purchased to appropriate specification, and which are expected to display the mechanical and chemical properties embodied in the material specification. The Company does not accept any liability for its products which are defective by virtue of steel or other materials which have been purchased failing to contain the mechanical and chemical properties embodied in any material specification of the Customer.

12. Default of the Customer

- 12.1 The Customer fails to make any payment as and when due and payable, commits an act of bankruptcy, has liens placed on a project or assets frozen or restrained, is insolvent or becomes subject to any form of external administration or an application for any form of external administration is made against the Customer (**Default**).
- 12.2 If the Customer continues to be in Default, the Company may issue a notice to the Customer to remedy the Default. If the Customer continues to be in Default for a period of twenty-eight (28) consecutive days or the Default is incapable of being remedied, without limiting the Company rights, the Company may at its discretion withhold further deliveries or terminate the Agreement. Where such Default occurs, this shall not in any way prejudice the right of the Company to recover any amounts due for materials previously supplied or manufactured to the Customer's requirements.

13. Limitation of liability

- 13.1 The Company's liability for or under any claim by the Customer in respect of the Agreement or associated matters is strictly limited to the value of the price allocable to the Goods which give rise to such claim, including negligence for any direct loss arising out of or connected with the Agreement, or from the performance or breach thereof or from the design, manufacture, sale, delivery, resale, installation, technical direction of installation, inspection, repair, test, modification, operation or use of any equipment, material or components covered by or furnished under this Agreement.
- 13.2 The Company will not be liable for any:
- claimed loss of profits or revenue, loss of time, loss of use of the equipment or any associated equipment, facilities or services downtime costs;
 - special or indirect or consequential loss or damage;
 - any claims by third parties against the Customer for loss or damage; or
 - loss or damage arising from the Customer's failure to obtain independent professional and/or tradesman's advice in relation to the suitability of the Goods for any specific purpose.
- 13.3 The Company does not give any warranty with respect to (without limitation):
- breaches of the Warranty not reported to the Company within the Warranty Period;
 - failures or damages in respect of the Goods due to misapplication, abuse, improper installation by third parties, abnormal conditions of temperature, dirt or corrosive matter;

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- c) failures in respect of the Goods due to operation (either intentional or otherwise) above rated capacities or in an otherwise improper manner;
 - d) Goods which have been in any way tampered or altered by anyone other than an authorised representative of the Company;
 - e) Goods damaged in shipment or otherwise without fault of the Company; and
 - f) expense incurred by the Customer to repair or rework any alleged damaged to Goods (or failures in respect of services).
- 13.4 Claims specifically relating to poor workmanship or failure to supply products conforming to the Customer's orders shall not be recognised by the Company unless the Customer makes such a claim, in writing, within fourteen (14) days of delivery of the Goods to the Customer. Further, any claim for labour charges or product replacement relating to a claim set out in this clause 13.4 will not be recognised unless the Company can satisfy itself of the value of such claim and the value does not exceed the price of the Goods to which the claim relates.

14. Indemnity

- 14.1 The Customer agrees to indemnify and hold harmless the Company from and against:
- a) any loss arising from the injury to or death of any person caused by the act, omission, negligence or otherwise of the Customer, the Customer's employees, servants and agents, whilst the Company supplies any Goods (including the performing of services);
 - b) any loss caused to the Company, whether such loss was caused by the act, default or negligence on the part of the Company or otherwise; and
 - c) any loss arising from the injury to or death of any person caused by the act, omission, negligence or otherwise of the Customer, the Customer's employees, servants and agents, to the extent permitted by law, where the Goods were misappropriated, misused, stored or handled in a way contrary to the Company's instructions or reasonably expected ordinary storage and use, or otherwise where due care and skill were not applied.
- 14.2 The Customer shall assume all risks and liabilities for and in respect of the provision of Goods and for injuries to or death of persons and damage to property howsoever arising and the Customer indemnifies the Company from and against:
- a) the loss of or damage to any Goods for which payment of the price has not yet been made in full, whether by fire, theft, accident, seizure, confiscation or otherwise whilst in the Customer's custody, possession or control; and
 - b) all other loss howsoever arising or incurred, as a result of or in connection with the provision of Goods.
- 14.3 Where the Company supplies the Customer with services in the form of hydrant booster flow and/or hydrostatic pressure testing (**Testing**), the Customer acknowledges and agrees to indemnify and hold harmless the Company against all claims for any loss or damage giving rise to liability on the part of the Company during the course of the performance of Testing.

15. Sub-Contracting

The Company reserves the right to sub-contract the manufacture and/or supply of any part of the Goods quoted or of any materials or services to be supplied.

16. Property in Goods

- 16.1 The Company shall remain the sole and absolute owner of the Goods until the price for the Goods has been received in full by the Company. Subject to the provisions of the PPSA Act, the Company is be entitled, in addition to the right conferred by clause 16.2(b), to retake possession of all Goods in the possession of the Customer which have been supplied by the Customer sufficient to clear any outstanding indebtedness by the Customer to the Company under these Terms. As such, the Company shall not be required to distinguish between Goods which have been paid for and Goods which have not been paid for.
- 16.2 Subject to the provisions of the PPSA Act, until the Company has received payment in full in respect of the Goods it has supplied to the Customer, the Customer:
- a) shall be the bailee of the Goods and store the Goods at its premises separately from its own goods and items or those of any other person and store them in a manner enabling the Goods to be readily identifiable as Goods of the Company;
 - b) grants the Company an irrevocable licence to enter the Customer's premises to retrieve the Goods;
 - c) shall not sell or dispose of any of the Goods or any interest in the Goods without the prior written consent of the Company; and

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- d) shall not sell or grant any other security interest in the collateral.
- 16.3 If the Company consents in writing to the sale or disposal of the Goods, or if any sale or disposal of the Goods is made in breach of clause 16.2 and notwithstanding such breach, the Customer:
- a) must inform any person to whom it proposes to sell or dispose of the Goods and any interest in the Goods (**Acquirer**) of the Company's interest;
 - b) must ensure that the terms of the sale or disposal of Goods to the Acquirer includes a term which is identical in substance to this clause 16;
 - c) must notwithstanding that the payment of the price for the Goods would not otherwise have been due by the Customer, pay in full the price for the Goods to the Company as soon as it receives the payment from the Acquirer;
 - d) must hold all its rights against the Acquirer on trust for the Company and, to the extent necessary to discharge all debts owing to the Company in respect of the supply of Goods or other Goods only, any proceeds it receives;
 - e) must at the Company's request, assign its claims against the Acquirer and agrees irrevocably to appoint the Company and each of its officers as its attorney to give effect to and complete that assignment;
 - f) agrees that the Company is entitled to trace all and any proceeds arising from the sale or disposal of the Goods until the Customer pays the full price for the Goods to the Company; and
 - g) agrees that the Company is entitled to trace all and any proceeds arising from any sale or disposal of the Goods until the Customer pays the full price to the Company for all other Goods supplied by the Company; and
- 16.4 Where Goods have become Mixed Goods, the Customer agrees with the Company:
- a) that the ownership of the Mixed Goods immediately passes to the Company, to the extent necessary to repay all moneys owing to the Company and to no greater extent; and
 - b) until payment of all sums owing to the Company, whether under the Agreement or any other contract, that the Customer shall hold the Goods as a fiduciary for the Company.
- 16.5 Subject to the PPSA Act, the ownership of Mixed Goods passes to the Company at the beginning of the single operation or event by which the Goods are converted, mixed, commingled or become part of Mixed Goods.
- 16.6 Where the Customer has not paid the Company in the manner required by these Terms:
- a) the Customer agrees with the Company to keep Mixed Goods as a fiduciary for the Company and, unless otherwise required by the Company, to store Mixed Goods in a manner that clearly shows the ownership of the Company; and
 - b) the Customer grants the Company a security interest in the Mixed Goods as security for payment of the Goods.

17. Lien

The Company is entitled to claim a general Lien on all goods belonging to the Customer for all amounts owing to the Company by the Customer.

18. Materials supplied by the Customer

- 18.1 Where the Company agrees to customise Goods or provide Goods specific to the requirements of the Customer, the Customer shall provide to the Company any patterns, designs, specifications, drawings, samples, technical information or otherwise (whether in electrical format or otherwise) to enable the Company to supply the Goods accordingly (Materials).
- 18.2 All Materials and the Customer's intellectual property within such Materials (if any), remain the property of the Customer.
- 18.3 The Company will not use the Materials for any purpose other than to the extent required to supply the Goods to the Customer.

19. Jurisdiction

This Agreement shall be governed by the laws in force in New South Wales, Australia, and the parties submit to the exclusive jurisdiction of the Courts of New South Wales, Australia, or another state or territory's jurisdiction of a court as deemed appropriate by the Company.

FIRE 20. Privacy policy

- 20.1 The Agreement shall be governed by the Company's Privacy Policy, a copy of which is attached to this Agreement at Annexure A.
- 20.2 Further to the Company's Privacy Policy, the Company collects personal information to assess applications for credit and to monitor any such credit facility provided, and where necessary to assist in the recovery of debt. Accordingly, in addition to the terms set out in the Company's Privacy Policy regarding disclosure of personal information, the Company may also disclose personal information to trade insurers, other suppliers, credit reporting agencies, debt collecting agencies, cheque guarantee providers, and other organisations involved in the Company's business.
- 20.3 By completing and entering into this Agreement, the Customer consents to use and disclosure of its personal information as set out in the Company's Privacy Policy and these Terms.

21. Cancellations of supply or installation of the Goods

- 21.1 If the Customer seeks to cancel the supply or installation of the Goods, the Customer must notify the Company of such decision as soon as reasonably practicable (**Cancellation Request**). The Company may, at its discretion, refuse the Customer's Cancellation Request.
- 21.2 Notwithstanding clause 21.1 above, if the Company accepts the Cancellation Request, the Customer shall be liable to pay the Company for any Goods supplied or installed by the Company prior to the date of receipt of the Cancellation Request, in addition to any reasonable administration fees associated with the Company's acceptance of the Cancellation Request.

22. Termination and Cancellation of purchase order

- 22.1 The Customer may cancel any purchase order prior to the provision of Goods under the respective purchase order by at least seven (7) days' written notice to the Company. Regardless of the circumstances, where a Customer cancels a purchase order, the Customer will be liable to make payment to the Company for any costs reasonably incurred by the Company together with such reasonable and proper cancellation charges as determined by the Company in fulfilling or otherwise preparing to fulfil the purchase order.
- 22.2 The Company may suspend or terminate the Agreement at any time:
- for convenience by giving the Customer thirty (30) days' written notice to such effect (Termination Notice). The Company will fulfil any purchase order(s) issued to the Company prior to the date of the Termination Notice, unless the Company and Customer agree otherwise. Fulfilment of such purchase orders shall not effect termination of the Agreement in accordance with this subclause 22.2(a). If a purchase order is issued to the Company after the date of the Termination Notice, but prior to termination of the Agreement, the Customer may at its discretion elect to accept the purchase order.
 - if the Customer is in default of a material term of this Agreement, by giving fourteen (14) days' written notice to the Customer, and if the Customer fails to remedy such default within fourteen (14) days of written notice from the Company or if such default is not capable of remedy;
 - immediately if the Customer has failed to pay an invoice by its due date;
 - immediately if the Customer becomes insolvent, is made bankrupt, is placed into external administration or liquidation or has a receiver or other controller appointed over its assets; or
 - immediately if the Customer fails to notify the Company of a change in control of ownership of the Customer within seven (7) days of such occurrence.
- 22.3 Termination of the Agreement pursuant to this clause 22 shall be without prejudice to the rights of either party accruing prior to termination.

23. Dispute resolution

- 23.1 If a dispute arises, either the Company or Customer may by hand, registered post or email, give the other party written notice of the dispute, identifying and providing details and particulars of the dispute and entitled Dispute Notice (Dispute Notice), within fourteen (14) days of the occurrence of the event(s) or circumstance(s) on which the dispute arises or is based.
- 23.2 The Company shall not be liable to the Customer in respect of any dispute (including any claim) in connection with the Agreement where clause 23.1 is not complied with.
- 23.3 Within seven (7) days of receipt of a Dispute Notice, representatives of the Company and Customer having the authority to bind the Company and Customer respectively, shall confer to seek to resolve the dispute or agree on a method of doing so, and whether that method shall be binding. If a resolution or method of resolution has not been agreed within twenty one (21) days of the service of Dispute Notice, the dispute shall be referred to mediation. All aspects of such mediation shall be subject to "without prejudice" privilege.

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23.4 In the event a dispute is not resolved between the Company and Customer, reasonable efforts must be made to resolve the dispute through mediation before commencing proceedings in relation to the dispute. The Customer will be barred from commencing proceedings unless the procedure in clause 23 is strictly complied with. The Company is exempt from complying with the mediation requirement where the dispute concerns non-payment by the Customer for Goods provided by the Company.

24. Compliance with laws

The Company and Customer must at all times comply with all applicable laws relating to anti-bribery, improper payments, anti-money laundering, and modern slavery, including but not limited to the *Criminal Code Act 1995* (Cth), the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), the *Anti-Money Laundering and Counter-Terrorism Financing Rules 2007* (Cth), and the *Modern Slavery Act 2018* (Cth).

25. General

- 25.1 If any provision or any part of any provision of the Agreement is unenforceable, such unenforceability shall not affect other parts of such provision or any other provision of the Agreement.
- 25.2 The Company may alter, amend, revise or change any terms of the Agreement with written notice to the Customer of any such alteration, amendment, revision or change. The Agreement (as amended from time to time) shall apply to all Goods (including services performed) for the Customer and shall comprise the entire agreement between the Company and Customer, notwithstanding any other terms and conditions supplied by the Customer where the Company agrees to such terms and conditions in writing.
- 25.3 Any waiver by the Customer of strict compliance with any provision of the Agreement shall not be effective unless in writing and signed by an authorised officer of the Customer.
- 25.4 Written notice for the purposes of these Terms means notice given by an authorised representative of the party giving notice, given to the receiving party by hand, registered post or mail, or by email.
- 25.5 No provision of the Agreement shall be construed adversely against one party solely on the basis that that party was responsible for the drafting of that provision.

26. Survival

Clauses 5, 6, 7, 8, 11, 12, 13, 14, 16, 18, 19, 20, 21, 22, 23, and 24 survive termination of this Agreement.

ANNEXURE A

PRIVACY POLICY

Overview

The *Privacy Act 1988* (Cth) (the “**Act**”) requires entities bound by the Australian Privacy Principles (**APPs**) to have a privacy policy.

This privacy policy sets out how ARA Group Limited ACN 074 886 561 and its controlled entities (as defined by section 50AA of the *Corporations Act 2001* (Cth)) (collectively “**ARA**”) use, collect, handle, store and otherwise deal with personal information, in accordance with its legal obligations under the Act (**Privacy Policy**). In this Privacy Policy, references to “**we**”, “**us**” or “**our**” refers to ARA.

Personal information

Personal information includes but is not limited to any of the following:

- your name;
- your contact details, including email address and telephone number;
- information you provide through customer surveys or similar mechanisms;
- details of products and/or services we have provided to you (including those you provide when making enquiries about our products and/or services and our response to your query);
- your browser session and geo-location data, device and network information, statistics on page views and sessions, acquisition sources, search queries and/or browsing behaviour;
- information about your access and use of our websites, including through the use of Internet cookies, your communications with our websites, the type of browser you are using, the type of operating system you are using, the domain name of your Internet service provider;
- additional personal information that you provide to us, directly or indirectly, through your use of our website, associated applications, associated social media platforms and/or accounts from which you permit us to collect information;
- demographic data such as your postcode, web-browsing preferences and interests; and
- any other personal information requested by us and/or provided by you or a third party.

At all times, ARA endeavours to only collect the personal information reasonably required for a particular purpose, function or activity carried on. Notwithstanding this, ancillary personal information may be collected.

Personal information may be collected directly from you, or from third parties.

Collection and use of personal information

The main way we collect personal information is when you give us such information, such as where you make an enquiry via our websites. Notwithstanding this, personal information can be collected in a number of different ways. Without limitation, the way we collect personal information may include collection by way of forms filled out (online and in physical format), surveys, emails, telephone conversations, social media applications and forums, online user-generated content, face-to-face meetings and interviews, and market research.

ARA may hold, use and disclose (in the circumstances set out below) your personal information for a number of purposes, including but not limited to the following:

- to contact and communicate with you;
- internal record keeping and administrative purposes;
- for analytics, market research and business development, including to operate and improve our websites, associated applications and associated social media platforms;
- to run competitions and/or offer additional benefits to you;
- to respond to queries you make about our products and/or services;
- for advertising and marketing, including to send you promotional information about our products and services and information about ARA or third parties that we consider may be of interest to you;
- to improve our products and/or services;
- with our legal obligations and resolve any disputes that we may have;

- to consider your employment application; and
- to investigate and respond to queries or complaints made under this Privacy Policy.

Sensitive information

From time to time, we may be required to collect sensitive information from you, for example, to review and consider an employment application, or to handle a complaint made under this Privacy Policy.

As defined by section 6 of the Act, sensitive information includes information about your health, racial or ethnic origin, political opinion(s), association memberships, religious beliefs, criminal history, and genetic or biometric information.

Third party collection

In the course of considering your employment application or investigating and responding to complaints made under this Privacy Policy, and any other applicable circumstance, we may collect personal information (including sensitive information) about you indirectly from publicly available sources or from third parties such as:

- your authorised representative, if you have one;
- referees provided by you in support of your employment application; and
- any applicable party to any application, complaint or investigation under this Privacy Policy.

Where we receive information from third parties, we will protect it in accordance with this Privacy Policy.

If you are a third party who has or provides personal information about another, you represent and warrant that you have obtained that person's consent before providing the personal information to us. Under no circumstances should you provide us with another person's personal information if you have not obtained their express consent.

Collecting information through our websites

Personal information may also be collected through your use of our website such as through cookies, web beacons and web analytics in accordance with standard practice. Cookies are small data files transferred onto computers or devices by websites for record-keeping purposes. Cookies help analyse web traffic and enhance functionality on the website(s) visited. Cookies allow web applications to respond to you, and based on your cookies, the web application can be tailored to your needs, likes and dislikes by gathering and remembering information about your preferences.

Most Internet browsers allow you to choose whether to accept cookies or not. Some of our websites will allow you to accept cookies through the use of an 'opt-in' function. If you do not wish to have cookies placed on your computer, you may choose not to opt-in to cookies where this function exists. In the alternative, where this function is not available, if you do not wish to have cookies placed on your computer, please set your browser preferences to reject all cookies before accessing our website.

The cookies from our website are generally created by HubSpot, Google Analytics and SiteImprove (without limitation) and most commonly start with `_ga`, `_gid`, `_gat_gtag`, `__hssc`, `__hssc`, `__hstc`, `hubspotuk`.

Should you require a full list of the types and names of cookies generated through our website, please contact us by emailing itsupport@aragroup.com.au.

We may use web beacons on our websites from time to time. Web beacons (also known as Pixel Tags or Clear GIFs) are small pieces of codes placed on a web page to monitor the visitor's behaviour and collect data about the visitor's viewing of a web page. For example, web beacons can be used to count the users who visit a web page or to deliver a cookie to the browser of a visitor viewing that page.

We use tools such as Google Analytics and SiteImprove to collect data about how you interact with our website (**Web Analytics**). The data collected through Web Analytics will include, without limitation; your device's IP address, your device type, operating system and browser information, geographic location, search terms and pages visited, and the date and time when pages were accessed on our website(s). Web Analytics allows us to improve functionality on our websites based on the data collected, such as by distributing web traffic across multiple servers to optimise response times.

Anonymity

In some circumstances you may have the option of interacting with us anonymously or not identifying yourself such as by using a pseudonym, such as when you make an enquiry through our websites.

If you choose not to provide information such as your name and contact details, we may be unable to fulfil our functions and activities, including responding to requests for information about our products or services.

Disclosure of personal information

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ARA may use and disclose your personal information; for the primary purposes for which personal information was collected, for reasonably expected secondary purposes which are related to the primary purpose, for purposes which you have consented to, and for other reasons permitted by the Act.

Dependent on the circumstances, we may disclose personal information to:

- our employees, contractors and/or related entities;
- our existing or potential agents or business partners;
- sponsors or promoters of any competition we run;
- anyone to whom our business or assets (or any part of them) are, or may (in good faith) be, transferred;
- credit reporting agencies, courts, tribunals and regulatory authorities, in the event you fail to pay for goods or services we have provided to you;
- courts, tribunals, regulatory authorities and law enforcement officers, as required by law, in connection with any actual or prospective legal proceedings, or in order to establish, exercise or defend our legal rights;
- third party service providers for the purpose of enabling them to provide their services, including (without limitation) information technology service providers, data storage, web-hosting and server providers, debt collectors, advertising providers, maintenance or problem-solving providers, professional advisors and payment systems operators; and
- third parties to collect and process data, such as Google Analytics or other relevant businesses (this may include parties that store data outside of Australia).

We may disclose your personal information (other than sensitive information) for the purpose of direct marketing where it is reasonably expected that we would use or disclose your personal information for that purpose and where there are simple mechanisms through which you can request to 'opt out' or otherwise elect not to receive direct marketing communications.

We only disclose your sensitive information for the purposes for which you gave it to us, or for directly related purposes you would reasonably expect or consent to, such as when handling complaints under this Privacy Policy.

In certain circumstances, subject to the APPs, your personal information may be disclosed to overseas recipients where we are of the reasonable belief that the overseas recipient is subject to laws or a binding scheme that provides privacy protections substantially similar to that of the APPs, or where we take reasonable steps to ensure that the overseas recipient will not breach the APPs in relation to that information, such as by contractually obliging the overseas recipient not to do so.

Links to other websites

Our websites may contain links to other websites of interest, including links to the websites of other companies and organisations we work with. We do not have control over websites that do not belong to ARA. Therefore, we are not responsible for the protection and privacy of any information which you provide whilst visiting linked websites which are not governed by this Privacy Policy.

Storage

We are committed to ensuring that the personal information we collect is secure. In order to prevent unauthorised access or disclosure, our data, including personal information collected from you is stored in our private cloud server and in secure digital storage locations across ARA's office locations. Data may be backed up and/or archived subject to AES 256bit encryption.

We cannot guarantee the security of any information that is transmitted to or by us over the Internet. The transmission and exchange of information is carried out at your own risk. Although we take measures to safeguard against unauthorised disclosures of information, we cannot assure you that the personal information we collect will not be disclosed in a manner that is inconsistent with this Privacy Policy.

Unsubscribe

If you are receiving communications from us (including marketing communications) which you no longer wish to receive 'opt-out' using the opt-out facilities provided in the communications, or if this is unavailable, please contact us by emailing legal@aragroup.com.au.

Accessing data

In accordance with your rights under the APPs, you may request the details of the personal information that we hold about you.

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To obtain access of the personal information held, please contact us by emailing legal@aragroup.com.au outlining your request and include; your name, contact details and the personal information you wish to access. We will endeavour to respond to your request within thirty (30) days (or more, if reasonable in the circumstances) and will supply access to personal information in digital form. An administrative fee may be payable where personal information is requested to be sent by post or similar means.

We may request identification from you prior to providing personal information to ensure that you are requesting your personal information only and not that of another.

ARA may refuse to grant access to personal information requested where:

- giving access would pose a serious threat to the life, health or safety of a person, or public health or safety generally;
- giving access would have an unreasonable impact on the privacy of other individuals;
- the request is frivolous or vexatious;
- the information requested relates to existing or anticipated legal proceedings and would be accessible through discovery in those proceedings;
- giving access would reveal the intentions of ARA in relations to negotiations with you in a way that would prejudice those negotiations;
- giving access would be unlawful;
- a law or an order of a Court or Tribunal compels ARA to deny access;
- there is reason for ARA to suspect that unlawful activity or misconduct of a serious nature relating to its functions or activities has been, is being, or may be engaged in, and giving access would likely prejudice the taking of appropriate action relating to the matter;
- giving access would likely prejudice one or more enforcement related activity of an enforcement body; or
- giving access would reveal evaluative information generated by ARA in connection with a commercially sensitive decision-making process.

Where we refuse to grant access to personal information for any of the above reasons (or cannot give access in the manner requested), we will provide written notice stipulating the reasons we refused to grant access and the mechanisms available to you to lodge a complaint about our refusal.

Corrections

If you believe that any personal information we hold about you is incorrect, out of date, incomplete, irrelevant or misleading, please contact us by emailing legal@aragroup.com.au outlining your request and include; your name, contact details and details of the personal information you wish to correct.

We will take all reasonable steps to correct any information that is found to be inaccurate, incomplete, misleading, or out of date.

We may request identification from you when dealing with a correction to ensure that only your personal information is dealt with and not that of another.

Complaints

If you wish to complain to us about how we have handled your personal information, please contact us by emailing legal@aragroup.com.au outlining the full details of the complaint you wish to make along with your name and contact details.

Once your complaint has been received, we will investigate the complaint. Further information may be required from you to allow us to investigate the complaint thoroughly.

We will endeavour to provide written notice informing you of the findings of our investigation within thirty (30) days (or more, if reasonable in the circumstances) of receipt of your complaint.

Notwithstanding the above, if you remain dissatisfied, you can contact the Office of the Australian Information Commissioner to make a written complaint through any of the following methods:

- by emailing enquiries@oaic.gov.au;
- by mail sent to GPO Box 5218, Sydney NSW 2001; or
- by fax, sent to 02 9284 9666

Amendments

From time to time, ARA may update this Privacy Policy. For the avoidance of doubt, the most recent Privacy Policy shall apply.

This Privacy Policy is dated 31 July 2020.