
Larsen Engineering Pty Ltd – Terms & Conditions of Trade

1. Definitions

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

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts Delivery of the Goods.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Client acknowledges that the supply of Goods on credit shall not take effect until the Client has completed a credit application with Larsen and it has been approved with a credit limit established for the account.
- 2.5 In the event that the supply of Goods request exceeds the Clients credit limit and/or the account exceeds the payment terms, Larsen reserves the right to refuse Delivery.
- 2.6 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions (Victoria) Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

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

4. Change in Control

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

5. Authorised Representatives

- 5.1 The Client acknowledges that Larsen shall (for the duration of the Services) liaise directly with one (1) authorised representative, and that once introduced as such to Larsen, that person shall have the full authority of the Client to order any Services, Goods and/or to request any variation thereto on the Client’s behalf. The Client accepts that they will be solely liable to Larsen for all additional costs incurred by Larsen (including Larsen’s profit margin) in providing any Services, Goods or variation/s requested thereto by the Client’s duly authorised representative.

6. Price and Payment

- 6.1 At Larsen’s sole discretion, the Price shall be either:
- (a) as indicated on any invoice provided by Larsen to the Client; or
 - (b) Larsen’s quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

Larsen Engineering Pty Ltd – Terms & Conditions of Trade

- 6.2 Larsen reserves the right to change the Price if a variation to Larsen's quotation is requested. Variations will be charged for on the basis of Larsen's quotation, and will be detailed in writing, and shown as variations on Larsen's invoice. The Client shall be required to respond to any variation submitted by Larsen within ten (10) working days. Failure to do so will entitle Larsen to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 6.3 At Larsen's sole discretion, a non-refundable deposit may be required.
- 6.4 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by Larsen, which may be:
- (a) by way of instalments/progress payments in accordance with Larsen's payment schedule;
 - (b) seven (7) days following the date in which a statement is posted to the Client's address or address for notices;
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) failing any notice to the contrary, the date which is thirty (30) days following the date of any invoice given to the Client by Larsen.
- 6.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed to between the Client and Larsen.
- 6.6 Larsen may in its discretion allocate any payment received from the Client towards any invoice that Larsen determines and may do so at the time of receipt or at any time afterwards. On any default by the Client Larsen may re-allocate any payments previously received and allocated. In the absence of any payment allocation by Larsen, payment will be deemed to be allocated in such manner as preserves the maximum value of Larsen's Purchase Money Security Interest (as defined in the PPSA) in the Goods.
- 6.7 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Larsen nor to withhold payment of any invoice because part of that invoice is in dispute.
- 6.8 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to Larsen an amount equal to any GST Larsen must pay for any supply by Larsen under this or any other agreement for the sale of the Goods. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

7. Delivery of Goods

- 7.1 Delivery ("**Delivery**") of the Goods is taken to occur at the time that:
- (a) the Client or the Client's nominated carrier takes possession of the Goods at Larsen's address; or
 - (b) Larsen (or Larsen's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.
- 7.2 At Larsen's sole discretion, the cost of Delivery is either included in the Price or is in addition to the Price.
- 7.3 The costs of carriage and any insurance which the Client reasonably directs Larsen to incur, shall be reimbursed by the Client (without any set-off or other withholding whatever) and shall be due on the date for payment of the Price. The carrier shall be deemed to be the Client's agent.
- 7.4 Any time specified by Larsen for Delivery of the Goods is an estimate only. The Client must take Delivery by receipt or collection of the Goods whenever they are tendered for Delivery. Larsen will not be liable for any loss or damage incurred by the Client as a result of Delivery being late. In the event that the Client is unable to take Delivery of the Goods as arranged then Larsen shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 7.5 Larsen may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 7.6 The costs of carriage and any insurance which the Client reasonably directs Larsen to incur, shall be reimbursed by the Client (without any set-off or other withholding whatever) and shall be due on the date for payment of the Price. The carrier shall be deemed to be the Client's agent.

8. Access

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

9. Risk

- 9.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.
- 9.2 If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Client, Larsen is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Larsen is sufficient evidence of Larsen's rights to receive the insurance proceeds without the need for any person dealing with Larsen to make further enquiries.
- 9.3 If the Client requests Larsen to leave Goods outside Larsen's premises for collection or to deliver the Goods to an unattended location, then such Goods shall be left at the Client's sole risk.
- 9.4 The Client acknowledges that Goods supplied may exhibit variations in shade, colour, texture, surface and finish. Larsen will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.
- 9.5 The Client warrants that the structure of the premises or equipment in or upon which these Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and Larsen shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising should the premises or equipment be unable to accommodate the installation.
- 9.6 Larsen shall not be liable for any defect or damage resulting from incorrect or faulty installation.
- 9.7 The Client acknowledges that Larsen is only responsible for parts that are replaced/supplied by Larsen and does not at any stage accept any liability in respect of components supplied by any other third party that subsequently fail and are found to be the source of the failure, the Client agrees to indemnify Larsen against any loss or damage to the Goods, or caused thereby, or any part thereof howsoever arising.
- 9.8 Any advice, recommendation, information, assistance or service provided by Larsen in relation to Goods provided is given in good faith, is based on Larsen's own knowledge and experience and shall be accepted without liability on the part of Larsen and it shall be the

Larsen Engineering Pty Ltd – Terms & Conditions of Trade

responsibility of the Client to confirm the accuracy and reliability of the same in light of the use to which the Client makes or intends to make of the Goods.

10. Dimensions, Plans and Specifications

- 10.1 All customary building industry tolerances shall apply to the dimensions and measurements of the Goods unless Larsen and the Client agree otherwise in writing.
- 10.2 Larsen shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client
- 10.3 If the giving of an estimate or quotation for the supply of Goods involves Larsen estimating measurements and quantities, it shall be the responsibility of the Client to verify the accuracy of Larsen's estimated measurements and quantities, before the Client places an order based on such estimate or accepts such quotation.
- 10.4 Should the Client require any changes to Larsen's estimated measurements and quantities, the Client shall request such changes in writing, in the case of an estimate before placing an order based on that estimate and in the case of a quotation before acceptance of that quotation.

11. Compliance with Laws

- 11.1 The Client and Larsen shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.
- 11.2 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Services.
- 11.3 The Client agrees that the site will comply with any occupational health and safety (OHS) laws relating to building/construction sites and any other relevant safety standards or legislation.

12. Title

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

13. Personal Property Securities Act 2009 ("PPSA")

- 13.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 13.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and/or collateral (account) – being a monetary obligation of the Client to Larsen for Services – that have previously been supplied and that will be supplied in the future by Larsen to the Client.
- 13.3 The Client undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Larsen may reasonably require to;
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 13.3(a)(i) or 13.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, Larsen for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of Larsen;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of Larsen;
 - (e) immediately advise Larsen of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 13.4 Larsen and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 13.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

Larsen Engineering Pty Ltd – Terms & Conditions of Trade

- 13.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 13.7 Unless otherwise agreed to in writing by Larsen, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 13.8 The Client must unconditionally ratify any actions taken by Larsen under clauses 13.3 to 13.5.
- 13.9 Subject to any express provisions to the contrary (including those contained in this clause 13), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

14. Security and Charge

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

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

- 15.1 The Client must inspect the Goods on Delivery and must within five (5) days of Delivery notify Larsen in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow Larsen to inspect the Goods.
- 15.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 15.3 Larsen acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 15.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Larsen makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Larsen's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 15.5 If the Client is a consumer within the meaning of the CCA, Larsen's liability is limited to the extent permitted by section 64A of Schedule 2.
- 15.6 If Larsen is required to replace the Goods under this clause or the CCA, but is unable to do so, Larsen may refund any money the Client has paid for the Goods.
- 15.7 If the Client is not a consumer within the meaning of the CCA, Larsen's liability for any defect or damage in the Goods is:
- (a) limited to the value of any express warranty or warranty card provided to the Client by Larsen at Larsen's sole discretion;
 - (b) limited to any warranty to which Larsen is entitled, if Larsen did not manufacture the Goods;
 - (c) otherwise negated absolutely.
- 15.8 Subject to this clause 15, returns will only be accepted provided that:
- (a) the Client has complied with the provisions of clause 15.1; and
 - (b) Larsen has agreed that the Goods are defective; and
 - (c) the Goods are returned within a reasonable time at the Client's cost (if that cost is not significant); and
 - (d) the Goods are returned in as close a condition to that in which they were delivered as is possible.
- 15.9 Notwithstanding clauses 15.1 to 15.8 but subject to the CCA, Larsen shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- (a) the Client failing to properly maintain or store any Goods;
 - (b) the Client using the Goods for any purpose other than that for which they were designed;
 - (c) the Client continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) the Client failing to follow any instructions or guidelines provided by Larsen;
 - (e) fair wear and tear, any accident, or act of God.
- 15.10 Notwithstanding anything contained in this clause if Larsen is required by a law to accept a return then Larsen will only accept a return on the conditions imposed by that law.

16. Intellectual Property

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

17. Default and Consequences of Default

- 17.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Larsen's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

Larsen Engineering Pty Ltd – Terms & Conditions of Trade

- 17.2 If the Client owes Larsen any money the Client shall indemnify Larsen from and against all costs and disbursements incurred by Larsen in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Larsen's contract default fee, and bank dishonour fees).
- 17.3 Further to any other rights or remedies Larsen may have under this Contract, if a Client has made payment to Larsen, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Larsen under this clause 17 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.
- 17.4 Without prejudice to Larsen's other remedies at law Larsen shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Larsen shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Larsen becomes overdue, or in Larsen's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client has exceeded any applicable credit limit provided by Larsen;
 - (c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- 18. Cancellation**
- 18.1 Without prejudice to any other remedies Larsen may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions Larsen may suspend or terminate the supply of Goods to the Client. Larsen will not be liable to the Client for any loss or damage the Client suffers because Larsen has exercised its rights under this clause.
- 18.2 Larsen may cancel any contract to which these terms and conditions apply or cancel Delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice Larsen shall repay to the Client any money paid by the Client for the Goods. Larsen shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 18.3 In the event that the Client cancels Delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by Larsen as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 18.4 Cancellation of orders for Goods made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.
- 19. Privacy Policy**
- 19.1 All emails, documents, images or other recorded information held or used by Larsen is Personal Information, as defined and referred to in clause 19.3, and therefore considered Confidential Information. Larsen acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). Larsen acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by Larsen that may result in serious harm to the Client, Larsen will notify the Client in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.
- 19.2 Notwithstanding clause 19.1, privacy limitations will extend to Larsen in respect of Cookies where transactions for purchases/orders transpire directly from Larsen's website. Larsen agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to Larsen when Larsen sends an email to the Client, so Larsen may collect and review that information ("collectively Personal Information")
- In order to enable / disable the collection of Personal Information by way of Cookies, the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via Larsen's website.
- 19.3 The Client agrees for Larsen to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Client in relation to credit provided by Larsen.
- 19.4 The Client agrees that Larsen may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Client; and/or
 - (b) to notify other credit providers of a default by the Client; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- 19.5 The Client consents to Larsen being given a consumer credit report to collect overdue payment on commercial credit.
- 19.6 The Client agrees that personal credit information provided may be used and retained by Larsen for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Goods; and/or
 - (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Goods.
- 19.7 Larsen may give information about the Client to a CRB for the following purposes:
- (a) to obtain a consumer credit report;

Larsen Engineering Pty Ltd – Terms & Conditions of Trade

- (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 19.8 The information given to the CRB may include:
- (a) Personal Information as outlined in 19.3 above;
 - (b) name of the credit provider and that Larsen is a current credit provider to the Client;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and Larsen has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of Larsen, the Client has committed a serious credit infringement;
 - (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 19.9 The Client shall have the right to request (by e-mail) from Larsen:
- (a) a copy of the Personal Information about the Client retained by Larsen and the right to request that Larsen correct any incorrect Personal Information; and
 - (b) that Larsen does not disclose any Personal Information about the Client for the purpose of direct marketing.
- 19.10 Larsen will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 19.11 The Client can make a privacy complaint by contacting Larsen via e-mail. Larsen will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

20. Service of Notices

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

21. Trusts

- 21.1 If the Client at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not Larsen may have notice of the Trust, the Client covenants with Larsen as follows:
- (a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
 - (b) the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
 - (c) the Client will not without consent in writing of Larsen (Larsen will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Client as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.

22. Client's Disclaimer

- 22.1 The Client hereby disclaims the right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to him by any servant or agent of Larsen and the Client acknowledges that he buys the Goods relying solely upon his own skill and judgement.

23. Dispute Resolution

- 23.1 If a dispute arises between the parties to this contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:
- (a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and
 - (b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

Larsen Engineering Pty Ltd – Terms & Conditions of Trade

24. General

- 24.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 24.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the state of Victoria in which Larsen has its principal place of business, and are subject to the jurisdiction of the courts of Wodunga in that state.
- 24.3 Subject to clause 15, Larsen shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Larsen of these terms and conditions (alternatively Larsen's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 24.4 Larsen may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.
- 24.5 The Client cannot licence or assign without the written approval of Larsen.
- 24.6 Larsen may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of Larsen's sub-contractors without the authority of Larsen.
- 24.7 The Client agrees that Larsen may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for Larsen to provide Goods to the Client.
- 24.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 24.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.