



**SRS Power Pty Ltd**

ABN: 45 108 318 832

12-20 Arkwright Drive, Dandenong South VIC 3175

Phone: (03) 8727 4500

Email: [accounts@srspower.com.au](mailto:accounts@srspower.com.au)

Web: [www.srspower.com.au](http://www.srspower.com.au)

ABN: 45 108 318 832

## CLIENT INFORMATION FORM

Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

<b>Client's Details:</b> <input type="checkbox"/> Individual <input type="checkbox"/> Sole Trader <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/> Other:		
Full or Legal Name:		
Physical Address:	State:	Postcode:
Billing Address:	State:	Postcode:
Email Address:		
Phone No:	Fax No:	Mobile No:
<b>Personal Details:</b> <i>(please complete if you are an Individual)</i>		
D.O.B.:	Driver's Licence No:	
<b>Business Details:</b> <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>		
Trading Name:		
ABN:	ACN:	Date Established <i>(current owners)</i> :
Contact Person:	Phone No.:	
Nature of Business:		
Directors / Owners / Trustee: <i>(if more than two, please attach a separate sheet)</i>		
(1) Full Name:	D.O.B.:	
Private Address:	State:	Postcode:
Driver's Licence No:	Phone No.:	Mobile No.:
(2) Full Name:	D.O.B.:	
Private Address:	State:	Postcode:
Driver's Licence No:	Phone No.:	Mobile No.:

I certify that the above information is true and correct and that I accept the supply of credit by SRS *(if applicable)*. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of SRS Power Pty Ltd which form part of, and are intended to be read in conjunction with this Client Information Form and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein.

**SIGNED (CLIENT):** \_\_\_\_\_ **SIGNED (SRS):** \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Position: \_\_\_\_\_ Position: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

OFFICE USE ONLY		
Account / Ref. No.	DATA INPUTTED	DATE



SRS Power Pty Ltd

ABN: 45 108 318 832

12-20 Arkwright Drive, Dandenong South VIC 3175

Phone: (03) 8727 4500

Email: accounts@srspower.com.au

Web: www.srspower.com.au

# CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

<b>Client's Details:</b> <input type="checkbox"/> Individual <input type="checkbox"/> Sole Trader <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/> Other:			
Full or Legal Name:			
Trading Name (if different from above):			
Physical Address:		State:	Postcode:
Billing Address:		State:	Postcode:
Email Address:			
Phone No:	Fax No:	Mobile No:	
<b>Personal Details:</b> <i>(please complete if you are an Individual)</i>			
D.O.B.:		Driver's Licence No:	
<b>Business Details:</b> <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>			
ABN:	ACN:	Date Established <i>(current owners)</i> :	
Nature of Business:			
Paid Up Capital: \$	Estimated Monthly Purchases: \$	Credit Limit Required: \$	
Principal Place of Business is: <input type="checkbox"/> Rented <input type="checkbox"/> Owned <input type="checkbox"/> Mortgaged <i>(to whom)</i> :			
Directors / Owners / Trustee <i>(if more than two, please attach a separate sheet)</i>			
(1) Full Name:		D.O.B.:	
Private Address:		State:	Postcode:
Driver's Licence No:	Phone No:	Mobile No:	
(2) Full Name:		D.O.B.:	
Private Address:		State:	Postcode:
Driver's Licence No:	Phone No:	Mobile No:	
<b>Account Terms:</b> <input type="checkbox"/> 30 Days <input type="checkbox"/> Other:			
Purchase Order Required? <input type="checkbox"/> YES <input type="checkbox"/> NO		Accounts to be emailed? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Accounts Email Address:			
Accounts Contact:		Phone No:	
Bank and Branch:		Account No:	
<b>Trade References:</b> <i>(please provide companies that are willing to do trade references)</i>			
Name:	Address:	Phone / Fax / Email:	
1.			
2.			
3.			

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of SRS Power Pty Ltd which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein.

**SIGNED (CLIENT):** \_\_\_\_\_ **SIGNED (SRS):** \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Position: \_\_\_\_\_ Position: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

OFFICE USE ONLY				
Account / Ref. No.	CREDIT LIMIT	APPROVED BY	DATA INPUTTED	DATE
	\$			

**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 **"SRS"** means SRS Power Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of SRS Power 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 SRS 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 (including consultation, manufacturing and/or installation Services) supplied by SRS 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 **"Intended Use"** means a building product and the use thereof, for which the building product is intended to be, or is reasonably likely to be, associated with the Services.
- 1.6 **"Non-Conforming Building Product"** means building products that are regarded as Non-Conforming for an Intended Use if, when associated with the Services:
  - (a) the product is not, or will not be, safe; or
  - (b) does not, or will not, comply with the relevant regulatory provisions; or
  - (c) the product does not perform, or is not capable of performing, for the use to the standard it is represented to conform by or for a person in the chain of responsibility for the product.
- 1.7 **"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.
- 1.8 **"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 using SRS' 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 making enquiries via the website.**
- 1.9 **"Price"** means the Price payable (plus any GST where applicable) for the Goods as agreed between SRS and the Client in accordance with clause 0 below.
- 1.10 **"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 SRS and it has been approved with a credit limit established for the account.
- 2.5 In the event that the supply of Goods requested exceeds the Client's credit limit and/or the account exceeds the payment terms, SRS reserves the right to refuse Delivery.
- 2.6 Where SRS gives any advice, recommendation, information, assistance or service provided by SRS in relation to Goods or Services supplied is given in good faith to the Client, or the Client's agent and is based on SRS' own knowledge and experience and shall be accepted without liability on the part of SRS. Where such advice or recommendations are not acted upon then SRS shall require the Client or their agent to authorise commencement of the Services in writing. SRS shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.
- 2.7 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 SRS 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 SRS 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 SRS 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 SRS; 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 SRS 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 SRS as a result of the Client's failure to comply with this clause.

**5. Price and Payment**

5.1 At SRS' sole discretion, the Price shall be either:

- (a) as indicated on any invoice provided by SRS to the Client; or
- (b) SRS' quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

5.2 SRS reserves the right to change the Price:

- (a) if a variation to the Goods which are to be supplied is requested; or
- (b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or
- (c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, poor weather conditions, limitations to the worksite access and/or crawl spaces, prerequisite work by a third party not being completed, inaccurate measurements, plans or specifications supplied by the Client, material shortages, hard rock or other barriers below the surface, iron reinforcing rods in concrete, or hidden pipes and wiring, etc.) which are only discovered on commencement of the Services; or
- (d) as a result of increases to SRS in the cost of materials and labour, taxes, levies, international freight and insurance changes, or fluctuations in currency exchange rates which are outside the control of SRS.

5.3 Variations will be charged for on the basis of SRS' quotation, and will be detailed in writing, and shown as variations on SRS' invoice. The Client shall be required to respond to any variation submitted by SRS within ten (10) days. Failure to do so will entitle SRS 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.

5.4 At SRS' sole discretion, a deposit may be required.

5.5 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by SRS, which may be:

- (a) before Delivery of the Goods;
- (b) on completion of the Services
- (c) by way of instalments/progress payments in accordance with SRS' payment schedule;
- (d) thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices;
- (e) the date specified on any invoice or other form as being the date for payment; or
- (f) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by SRS.

5.6 Payment may be made by electronic/on-line banking, or by any other method as agreed to between the Client and SRS.

5.7 SRS may in its discretion allocate any payment received from the Client towards any invoice that SRS determines and may do so at the time of receipt or at any time afterwards. On any default by the Client SRS may re-allocate any payments previously received and allocated. In the absence of any payment allocation by SRS, payment will be deemed to be allocated in such manner as preserves the maximum value of SRS' Purchase Money Security Interest (as defined in the PPSA) in the Goods.

5.8 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 SRS nor to withhold payment of any invoice because part of that invoice is in dispute.

5.9 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to SRS an amount equal to any GST SRS must pay for any supply by SRS 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.

**6. Provision of the Services**

6.1 Subject to clause 6.2 it is SRS's responsibility to ensure that the Services start as soon as it is reasonably possible.

6.2 The Services' commencement date will be put back and/or the completion date extended by whatever time is reasonable in the event that SRS claims an extension of time (by giving the Client written notice) where completion is delayed by an event beyond SRS' control, including but not limited to any failure by the Client to:

- (a) make a selection; or
- (b) have the worksite ready for the Services; or
- (c) notify SRS that the worksite is ready.

6.3 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 SRS' address; or
- (b) SRS (or SRS' nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.

6.4 At SRS' sole discretion, the cost of Delivery is either included or is in addition to the Price.

6.5 SRS 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.

6.6 Any time specified by SRS for Delivery of the Goods is an estimate only and SRS will not be liable for any loss or damage incurred by the Client as a result of Delivery being late. However, both parties agree that they shall make every endeavour to enable the Goods to

be delivered at the time and place as was arranged between both parties. In the event that SRS is unable to supply the Goods as agreed solely due to any action or inaction of the Client, then SRS shall be entitled to charge a reasonable fee for redelivery and/or storage.

## 7. Risk

- 7.1 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.
- 7.2 If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Client, SRS is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by SRS is sufficient evidence of SRS' rights to receive the insurance proceeds without the need for any person dealing with SRS to make further enquiries.
- 7.3 If the Client requests SRS to leave Goods outside SRS' premises for collection or to deliver the Goods to an unattended location, then such Goods shall be left at the Client's sole risk.
- 7.4 Where SRS is to both supply and install Goods then SRS shall maintain a contract works insurance policy until the Services are completed. Upon completion of the Services all risk for the Services shall immediately pass to the Client.
- 7.5 SRS shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client. The Client acknowledges and agrees that in the event that any of this information provided by the Client is inaccurate, SRS accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.
- 7.6 The Client warrants that any structures to which the Goods are to be affixed are able to withstand the installation of the Goods and that any electrical connections (including, but not limited to, meter boxes, main switches, circuit breakers, and electrical cable) are of suitable capacity to handle the Goods once installed. If, for any reason (including but not limited to, the structure not being watertight, the discovery of asbestos, defective or unsafe wiring, or dangerous access etc.) SRS reasonably forms the opinion that the Client's property is not safe for the installation of Goods to proceed then SRS shall be entitled to delay installation of the Goods (in accordance with clause 6.2) until SRS is satisfied that it is safe for the installation to proceed. SRS may in agreement with the Client bring the property up to a standard suitable for installation to proceed but all such Services undertaken and any additional Goods supplied shall be treated as a variation and be charged for in addition to the Price.
- 7.7 In the event that the electrical wiring is required to be re-positioned at the request of any third party contracted by the Client then the Client agrees to notify SRS immediately upon any proposed changes. The Client agrees to indemnify SRS against any additional costs incurred with such a relocation of electrical wiring. All such variances shall be invoiced in accordance with clause 5.2.
- 7.8 The Client acknowledges and accepts that:
- (a) any defects in the Goods or appearing in the Services after completion due to the Client or any third party using any items that overloads the structure or system to which SRS' Goods are installed or connected to, or by workmanship not performed by SRS, shall not be covered by any applicable warranty pertaining to the Goods;
  - (b) it is the Client's responsibility to insure any equipment partly or completely installed on the worksite, against theft or damage;
  - (c) SRS shall not be liable for any loss or damage caused in accessing the work area beyond reasonable control of SRS (including, without limitation, to ceiling tiles and panels, face brickwork and rendered masonry services) which SRS may have to break into or disturb in performance of the Services), unless due to the negligence of SRS;
  - (d) under no circumstances, will SRS handle removal of asbestos product. In the event asbestos (or other hazardous material) is discovered on the worksite:
    - (i) SRS shall suspend the Services;
    - (ii) the Client shall be fully responsible for the resolution of any resulting problems; and
    - (iii) any additional cost incurred by SRS shall be added to the Price under clause 5.2;
  - (e) Goods supplied may:
    - (i) exhibit variations in shade, colour, texture, surface and finish, and may fade or change colour over time. SRS 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;
    - (ii) expand, contract or distort as a result of exposure to heat, cold, weather;
    - (iii) mark or stain if exposed to certain substances; and
    - (iv) be damaged or disfigured by impact or scratching.
- 7.9 Where SRS requires that Goods, tools etc. required for the Services be stored at the worksite, the Client shall supply SRS a safe area for storage and shall take all reasonable efforts to protect all items from destruction, theft or damage. In the event that any of the stored items are destroyed, stolen or damaged, then the cost of repair or replacement shall be the Client's responsibility.

## 8. Access

- 8.1 The Client shall ensure that SRS has clear and free access to the worksite at all times to enable them to undertake the Services. SRS shall not be liable for any loss or damage to the worksite (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of SRS.
- 8.2 It is the Client's responsibility to provide SRS, while at the worksite, with adequate access to available water, electricity, toilet and washing facilities as required.
- 8.3 Worksite Inductions
- (a) in the event the Client requires an employee or sub-contractor of SRS to undertake a worksite induction during working hours, the Client will be liable to pay the hourly charges for that period. If any induction needs to be undertaken prior to the commencement date then the Client shall be liable to pay SRS' standard (and/or overtime, if applicable) hourly labour rate; or
  - (b) where SRS is in control of the worksite, the Client and/or the Client's third party contractors must initially carry out SRS' Health & Safety induction course before access to the worksite will be granted. Inspection of the worksite during the course of the Services will be by **appointment only** and unless otherwise agreed, in such an event the Client and/or third party acting on behalf of the Client must at all times be accompanied by SRS.



**9. Underground Locations**

- 9.1 Prior to SRS commencing the Services the Client must advise SRS of the precise location of all underground services on the worksite and clearly mark the same. The underground mains and services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on the worksite.
- 9.2 Whilst SRS will take all care to avoid damage to any underground services the Client agrees to indemnify SRS in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 9.1.

**10. Compliance with Laws**

- 10.1 The Client and SRS shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Goods and/or Services, including any occupational health and safety laws (OHS) relating or any other relevant safety standards or legislation pertaining to the Services.
- 10.2 Both parties acknowledge and agree:
- (a) to comply with the National Construction Code of Australia (NCC) and the Building Act 1993, in respect of all workmanship and building products to be supplied during the course of the Services; and
  - (b) that Services will be provided in accordance with any current relevant Australian/New Zealand Standards applicable.
- 10.3 Where the Client has supplied products for SRS to complete the Services, the Client acknowledges that it accepts responsibility for the suitability of purpose and use for their products and the Intended Use and any faults inherent in those products. However, if in SRS' opinion, it is believed that the materials supplied are Non-Conforming products and will not conform with state and/or territory regulations, then SRS shall be entitled, without prejudice, to halt the Services until the appropriate conforming products are sourced and all costs associated with such a change to the plans and design will be invoiced in accordance with clause 5.2.
- 10.4 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Services.
- 10.5 All work will be tested to ensure that it is electrically safe and is in accordance with the wiring rules and other standards applying to the electrical installation under the Electrical Safety Regulations. All of the cabling work will comply with all relevant Australian and New Zealand Wiring standards.
- 10.6 Any live Services or Services undertaken near live conductors where it is safe to do so shall be dealt with in accordance with Australian and New Zealand Wiring standards being "Safe working on Low Voltage Electrical Installations, relevant Commonwealth and Statutory Acts and Work Place Regulations". The SRS' live Services procedures are designed to eliminate risk of injury to SRS' employees, damage to the Client's installations and unexpected power disconnections. It may in some cases require disconnection and isolation of the installation to undertake such Services for which additional charges may be applicable. This shall be invoiced in accordance with clause 5.2.

**11. Title**

- 11.1 SRS and the Client agree that ownership of the Goods shall not pass until:
- (a) the Client has paid SRS all amounts owing to SRS; and
  - (b) the Client has met all of its other obligations to SRS.
- 11.2 Receipt by SRS 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.
- 11.3 It is further agreed that, until ownership of the Goods passes to the Client in accordance with clause 11.1:
- (a) the Client is only a bailee of the Goods and must return the Goods to SRS on request;
  - (b) the Client holds the benefit of the Client's insurance of the Goods on trust for SRS and must pay to SRS 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 SRS and must pay or deliver the proceeds to SRS 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 SRS and must sell, dispose of or return the resulting product to SRS as it so directs;
  - (e) the Client irrevocably authorises SRS to enter any premises where SRS believes the Goods are kept and recover possession of the Goods;
  - (f) SRS 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 SRS;
  - (h) SRS may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

**12. Personal Property Securities Act 2009 ("PPSA")**

- 12.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 12.2 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 that have previously been supplied and that will be supplied in the future by SRS to the Client, and the proceeds from such Goods.
- 12.3 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 SRS 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 12.3(a)(i) or 12.3(a)(ii);
  - (b) indemnify, and upon demand reimburse, SRS 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 SRS;
  - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods or the proceeds of such Goods in favour of a third party without the prior written consent of SRS;
  - (e) immediately advise SRS 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.
- 12.4 SRS 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.
- 12.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 12.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 12.7 Unless otherwise agreed to in writing by SRS, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 12.8 The Client must unconditionally ratify any actions taken by SRS under clauses 12.3 to 12.5.
- 12.9 Subject to any express provisions to the contrary (including those contained in this clause 12), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

### **13. Security and Charge**

- 13.1 In consideration of SRS 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, and the Client grants a security interest in all of its present and after-acquired property, 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).
- 13.2 The Client indemnifies SRS from and against all SRS' costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising SRS' rights under this clause.
- 13.3 The Client irrevocably appoints SRS and each director of SRS as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 13 including, but not limited to, signing any document on the Client's behalf.

### **14. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)**

- 14.1 The Client must inspect the Goods on Delivery and must within seven (7) days of Delivery notify SRS 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 SRS to inspect the Goods.
- 14.2 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**).
- 14.3 SRS acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 14.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, SRS makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. SRS' liability in respect of these warranties is limited to the fullest extent permitted by law.
- 14.5 If the Client is a consumer within the meaning of the CCA, SRS' liability is limited to the extent permitted by section 64A of Schedule 2.
- 14.6 If SRS is required to replace the Goods under this clause or the CCA, but is unable to do so, SRS may refund any money the Client has paid for the Goods.
- 14.7 If the Client is not a consumer within the meaning of the CCA, SRS' 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 SRS at SRS' sole discretion;
  - (b) limited to any warranty to which SRS is entitled, if SRS did not manufacture the Goods;
  - (c) otherwise negated absolutely.
- 14.8 Subject to this clause 14, returns will only be accepted provided that:
  - (a) the Client has complied with the provisions of clause 14.1; and
  - (b) SRS 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.
- 14.9 Notwithstanding clauses 14.1 to 14.8 but subject to the CCA, SRS 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 SRS;

(e) fair wear and tear, any accident, or act of God.

14.10 Subject to clause 14.1, customised, or non-stocklist items or Goods made or ordered to the Client's specifications are not acceptable for credit or return.

#### **15. Intellectual Property**

15.1 Where SRS has designed, drawn or developed Goods for the Client, then the copyright in any designs and drawings and documents shall remain the property of SRS. Under no circumstances may such designs, drawings and documents be used without the express written approval of SRS.

15.2 The Client warrants that all designs, specifications or instructions given to SRS will not cause SRS to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify SRS against any action taken by a third party against SRS in respect of any such infringement.

15.3 The Client agrees that SRS may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which SRS has created for the Client.

#### **16. Default and Consequences of Default**

16.1 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 SRS' sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

16.2 If the Client owes SRS any money the Client shall indemnify SRS from and against all costs and disbursements incurred by SRS in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, SRS' contract default fee, and bank dishonour fees).

16.3 Further to any other rights or remedies SRS may have under this Contract, if a Client has made payment to SRS, 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 SRS under this clause 16 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.

16.4 Without prejudice to SRS' other remedies at law SRS shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to SRS shall, whether or not due for payment, become immediately payable if:

(a) any money payable to SRS becomes overdue, or in SRS' 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 SRS;

(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.

#### **17. Cancellation**

17.1 Without prejudice to any other remedies SRS may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions SRS may suspend or terminate the supply of Goods to the Client. SRS will not be liable to the Client for any loss or damage the Client suffers because SRS has exercised its rights under this clause.

17.2 SRS 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 SRS shall repay to the Client any money paid by the Client for the Goods. SRS shall not be liable for any loss or damage whatsoever arising from such cancellation.

17.3 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 SRS as a direct result of the cancellation (including, but not limited to, any loss of profits).

17.4 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.

#### **18. Privacy Policy**

18.1 All emails, documents, images or other recorded information held or used by SRS is Personal Information, as defined and referred to in clause 18.3, and therefore considered Confidential Information. SRS 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"). SRS acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by SRS that may result in serious harm to the Client, SRS 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.

18.2 Notwithstanding clause 18.1, privacy limitations will extend to SRS in respect of Cookies where the Client utilises SRS' website to make enquiries. SRS 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 SRS when SRS sends an email to the Client, so SRS may collect and review that information ("collectively Personal Information")



If the Client consents to SRS' use of Cookies on SRS' website and later wishes to withdraw that consent, the Client may manage and control SRS' privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when exiting the site.

- 18.3 The Client agrees that SRS 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.
- 18.4 The Client consents to SRS being given a consumer credit report to collect overdue payment on commercial credit.
- 18.5 The Client agrees that personal credit information provided may be used and retained by SRS 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.
- 18.6 SRS may give information about the Client to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
  - (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 18.7 The information given to the CRB may include:
- (a) Personal Information as outlined in 18.3 above;
  - (b) name of the credit provider and that SRS 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 (provided SRS is a member of an approved QAIC External Disputes Resolution Scheme), 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 SRS has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
  - (g) information that, in the opinion of SRS, 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).
- 18.8 The Client shall have the right to request (by e-mail) from SRS:
- (a) a copy of the Personal Information about the Client retained by SRS and the right to request that SRS correct any incorrect Personal Information; and
  - (b) that SRS does not disclose any Personal Information about the Client for the purpose of direct marketing.
- 18.9 SRS 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.
- 18.10 The Client can make a privacy complaint by contacting SRS via e-mail. SRS 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](http://www.oaic.gov.au).

## **19. Unpaid Seller's Rights**

- 19.1 Where the Client has left any item with SRS for repair, modification, exchange or for SRS to perform any other service in relation to the item and SRS has not received or been tendered the whole of any monies owing to it by the Client, SRS shall have, until all monies owing to SRS are paid:
- (a) a lien on the item; and
  - (b) the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.
- 19.2 The lien of SRS shall continue despite the commencement of proceedings, or judgment for any monies owing to SRS having been obtained against the Client.

## **20. Building and Construction Industry Security of Payment Act 2002**

- 20.1 At SRS' sole discretion, if there are any disputes or claims for unpaid Goods and/or Services then the provisions of the Building and Construction Industry Security of Payment Act 2002 may apply.
- 20.2 Nothing in this Contract is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payment Act 2002 of Victoria, except to the extent permitted by the Act where applicable.

## **21. Service of Notices**

- 21.1 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.
- 21.2 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.

## **22. Trusts**

- 22.1 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 SRS may have notice of the Trust, the Client covenants with SRS 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 SRS (SRS 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.

## **23. General**

- 23.1 Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising herein, shall be submitted to, and settled by, mediation before resorting to any external dispute resolution mechanisms (including arbitration or court proceedings) by notifying the other party in writing setting out the reason for the dispute. The parties shall share equally the mediator's fees. Should mediation fail to resolve the dispute, the parties shall be free to pursue other dispute resolution avenues.
- 23.2 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.
- 23.3 These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria, the state in which SRS has its principal place of business, and are subject to the jurisdiction of the courts in Victoria.
- 23.4 Subject to clause 14, SRS 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 SRS of these terms and conditions (alternatively SRS' liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 23.5 SRS may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.
- 23.6 The Client cannot licence or assign without the written approval of SRS.
- 23.7 SRS 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 SRS' sub-contractors without the authority of SRS.
- 23.8 The Client agrees that SRS 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 SRS to provide Goods to the Client.
- 23.9 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc, ("Force Majeure") or other event beyond the reasonable control of either party.
- 23.10 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.