

Terms and Conditions of Sale

1. GENERAL

- 1.1 In these Conditions, the following definitions apply:
- ACL:** means the Australian Consumer Law Schedule of the *Competition and Consumer Act 2010* (Cth).
- Business Day:** means a day other than a Saturday, Sunday or public holiday in Western Australia.
- Company:** means Sungrid Limited (ACN 127 275 370) of 4 Bannister Street, Fremantle, Western Australia.
- Conditions:** means these terms and conditions as amended from time to time in accordance with condition 12.7.
- Contract:** means the contract between the Company and the Customer for the sale and purchase of the Goods in accordance with these Conditions.
- Corporations Act:** means the *Corporations Act 2001* (Cth).
- Customer:** means the person, firm or company who purchases the Goods from the Company.
- Consumer:** has the meaning given in the ACL.
- Goods:** means the goods (or any part of them) set out in the Order.
- Order:** means the Customer's order for the Goods, as set out in the Customer's purchase order form.
- Specification:** means any specification for the Goods, including any related plans and drawings that are supplied to the Company by the Customer, or produced by the Company and agreed in writing by the Customer.
- Warranty:** means a limited product warranty or limited peak power warranty or other specific warranty notified in writing by the Company to the Customer as being applicable to the Goods.
- You:** means the person, jointly or severally if more than one, acquiring Goods from the Company.

1.2 In these Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) a reference to a party includes its personal representatives, successors or permitted assigns.
- (c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (d) any phrase introduced by the terms including, include, in particular or any similar expression must be construed as illustrative and not limit the sense of the words preceding those terms.
- (e) a reference in writing or written includes faxes and emails.

2. BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Order, confirmation of Order, Specification or other document form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 Each Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer must ensure that the terms of the Order and any relevant Specification are complete and accurate.
- 2.4 The Order will only be deemed to be accepted when the Company issues a written acceptance of the Order by issuing an invoice to the Customer and upon receipt by the Company of payment of the deposit for the Goods from the customer, at which point the Contract will come into existence.
- 2.5 The Contract (including any Credit Application Terms) constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Any samples, drawings, descriptive matter, or advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They do not form part of the Contract or any other contract between the Company and the Customer for the sale of the Goods.
- 2.6 A quote, estimate or advertised price for the Goods given by the Company does not constitute an offer.
- 2.7 Any quotation for the Goods given by the Company, which has not been withdrawn by the Company, is valid for a period of 30 days from its date of issue, or an agreed period as determined by the Company.
- 2.8 Any quotation for the Goods given by the Company will not include site works unless otherwise specified.

3. DELIVERY

- 3.1 The Company must ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order all relevant Customer and Company reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

- 3.2 Subject to condition 3.3, the Company (or a carrier nominated by the Company) will deliver the Goods to the location set out in the Order or such other location as the parties may agree (the "Delivery Location"). Delivery will occur on the date set out in the Order or such later date as notified by the Company on acceptance of the Order or in the absence of a stipulated delivery date, delivery will be within a reasonable time of the date of the Order (the "Delivery Date").
- 3.3 Any delivery within two weeks of the required delivery date must be accepted by the Customer.
- 3.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.
- 3.5 The Company is not liable for any delay in delivery of the Goods caused by a Force Majeure Event (as defined in condition 10).
- 3.6 The Company is not liable for any delay in delivery of the Goods caused by the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods or for any delay in Delivery caused by the Customer failing to make payment in cleared funds of any payment or deposit required to be paid in advance of delivery to the Company.
- 3.7 Delivery of the Goods will occur when the Goods arrive at the Delivery Location.
- 3.8 Where a Customer has been advised that the Goods will be delivered by a stipulated Delivery Date and the Customer does not receive the Goods within 3 Business Days of that delivery date, the Customer must immediately notify the Company.
- 3.9 Where the Customer fails to notify the Company of the non-delivery of any Goods in accordance with condition 3.8, the Company will have no liability to the Customer for the non-delivery of the Goods.
- 3.10 The Company's liability for the non-delivery of the Goods is limited to (at the discretion of the Company):
 - (a) replacing the Goods within a reasonable time;
 - (b) issuing a credit note against any invoice raised for such Goods; or
 - (c) where payment for the Goods has been made in advance, refunding the purchase price of the Goods.
- 3.11 If the Customer fails to accept delivery either with reference to condition 3.6 or for any other reason, of the Goods within 3 Business Days of the Company notifying the Customer that they are ready for delivery to be accepted, then, except where such failure or delay is caused by a Force Majeure Event or the Company's failure to comply with its obligations under this Contract:
 - (a) delivery of the Goods is deemed to have been completed at 9.00 am on the third (3rd) Business Day following the date on which the Company notified the Customer that the Goods were ready; and
 - (b) the Company will store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance) incurred by the Company.
- 3.12 If, 10 Business Days after the Company has notified the Customer that the Goods are ready for delivery to be accepted by the Customer, the Customer has not accepted delivery of them:
 - (a) the Company may resell or otherwise dispose of part or all of the Goods; and
 - (b) the Company will store the Goods until sale or disposal takes place, and charge the Customer for all related costs and expenses (including insurance) incurred by the Company.
- 3.13 Without prejudice to the provisions of condition 4, the Company will not be liable for any loss of or damage to the Goods or for any claim that the Goods do not conform with the Contract, unless the Customer notifies the Company of any such claims within 14 Business Days of the Goods having been delivered.
- 3.14 Where the Company delivers the Goods by instalments, a delay in delivery or a defect in an instalment does not entitle the Customer to cancel any other instalment.
- 3.15 The Customer must, within 2 Business Days of the delivery of the Goods, advise the Company of any damage to packaging or packing material that could be expected to be evidence of damage to the Goods.
- 3.16 The Customer must, within 10 Business Days of the delivery of the Goods, advise the Company of any physical defect. Upon receiving the Products, the Customer or a third party inspection institution agreed upon by the Company shall inspect the delivered Products immediately for any physical or apparent damage at the Purchaser's own cost. The Purchaser shall notify the Seller in writing of any physical or apparent damage to the Products that render the Goods non-saleable within 14 Business Days of the date of the receipt of products; otherwise, the Purchaser shall be deemed to have inspected and found the delivered Products free of any apparent physical damage.
- 3.17 Should the Product not be fit for purpose in a way that is not apparent from physical inspection the Purchaser shall immediately notify the Seller.

4. WARRANTY

- 4.1 Where the Goods are supplied with the benefit of a Warranty, the provisions of the Warranty prevail over conditions 4.2 to 4.8 (inclusive) in the event of a conflict between these Conditions and such Warranty.
- 4.2 Where the Company is not the manufacturer of the Goods, the Company will endeavour to procure in favour of the Customer the benefit of any warranty or guarantee given to the Company by the manufacturer.

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- 4.3 The Company warrants that on delivery and for a period of 12 months from the date of delivery (the "Warranty Period") the Goods will:
- conform in all material respects with their description and any applicable Specification; and
 - be of acceptable quality (within the meaning of the ACL).
- 4.4 If:
- the Customer gives notice in writing to the Company during the Warranty Period within 7 Business Days of the time when the Customer discovers or ought to have discovered that some or all of the Goods do not comply with the warranty set out in condition 4.3;
 - the Company is given a reasonable opportunity of examining such Goods at the Customer's cost; and
 - the Customer (if asked to do so by the Company) returns the Goods to the Company's place of business at the Customer's cost (including the cost of insurance and transportation of the Goods being returned), the Company may, at its option, repair or replace the defective Goods or refund the price paid by the Customer in respect of the defective Goods.
- 4.5 The Company is not liable for any failure of the Goods to comply with the warranty set out in condition 4.3 if:
- the Customer makes any further use of the Goods after giving notice in accordance with condition 4.4(a);
 - the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice;
 - the defect arises as a result of the Company following any drawing, design or Specification supplied by the Customer;
 - the Customer alters or repairs such Goods without the written consent of the Company;
 - the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - the total price for the Goods has not been paid by the due date for payment.
- 4.6 Except as provided in this condition 4, the Company will have no further liability to the Customer in respect of the Goods' failure to comply with the warranty as set out in condition 4.3.
- 4.7 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 4.8 These Conditions apply to any repaired or replacement Goods supplied by the Company.
- 4.9 Notwithstanding any other provision of this condition 4:
- to the extent the ACL applies to this Contract, the Company warrants that "Our goods come with guarantees that cannot be excluded in the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure"; and
 - if the Customer is a Consumer, nothing in this Condition 4 restricts, limits or modifies the Customer's rights or remedies against the Company for a failure of the statutory guarantees under the ACL.
- 5. TITLE AND RISK**
- 5.1 Risk in the Goods passes to the Customer on completion of delivery.
- 5.2 Title to the Goods does not pass to the Customer until the Company has received payment in full (in cash or cleared funds) for:
- the Goods; and
 - all other sums which are or which become due to the Company from the Customer on any account.
- 5.3 Until title to the Goods has passed to the Customer, the Customer:
- holds the Goods on a fiduciary basis as the Company's bailee;
 - must store the Goods properly and separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
 - must not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - maintain the Goods in a satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - notify the Company immediately if it becomes subject to any of the events listed in condition 8.2; and
 - give the Company such information relating to the Goods as the Company may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business.
- 5.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in condition 8.2, or the Company reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Company may have, the Company may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them. All parts added to the Goods by the Customer will form part of the Goods for the purposes of this Contract.
- 5.5 The Customer grants an irrevocable licence to the Company, its agents and employees in the event that entry to the premises where the Goods are held is necessary to inspect or recover the Goods in accordance with the Contract.
- 5.6 The Customer must account to the Company for all proceeds of the Goods, including insurance proceeds.
- 6. PRICE AND PAYMENT**
- 6.1 The price of the Goods is the price set out in the Order, or, if no price is specified in the Order, the price included in the quotation given by the Company in relation to the Goods, or, where such quotation has expired, the price for the Goods as determined by the Company on the date of delivery.
- 6.2 The Company may, by giving notice to the Customer at any time up to 2 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate or accurate information or instructions.
- 6.3 Except where specified by the Company, the price of the Goods is exclusive of the costs and charges of packaging, insurance, loading, unloading and transport of the Goods which, at the discretion of the Company, will be charged to the Customer. The Customer is required to pay these amounts when payment is made for the Goods. The price of the Goods is exclusive of amounts in respect of goods and services tax ("GST"). The Customer must, on receipt of a valid GST invoice from the Company, pay to the Company such additional amounts in respect of GST as are chargeable on the supply of the Goods.
- 6.4 The Company may invoice the Customer for the Goods at any time after the Order.
- 6.5 The Company may require payment of the price of the Goods, or any part of it, in cleared funds prior to delivery of the Goods.
- 6.6 All invoices are payable by the Customer in full (less any amount paid in advance) in cleared funds within 14 days of the date of the invoice, or at a time interval specific to the order as determined by the Company.
- 6.7 All payments must be made to the bank account nominated in writing by the Company. Where the invoice provides for an alternative method or date for payment, that method or date for payment prevails.
- 6.8 Where the Goods are ordered in large volumes requiring containers, the Customer will be required to pay a deposit of 30% of the price of such Goods on acceptance of the Order by the Company and the balance must be paid to the Company in cleared funds on or before the Delivery Date. All deposits paid pursuant to this condition 6.8 are non-refundable at the Company's discretion.
- 6.9 Time of payment is of the essence. If the Customer fails to make any payment due to the Company under the Contract by the due date for payment ("the Due Date"), then the Customer must pay interest on the overdue amount at the rate of 2% per annum above the Business Overdraft rate of the Commonwealth Bank. Interest accrues on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer must pay the interest together with the overdue amount.
- 6.10 The Customer must pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer is not entitled to assert any credit, set-off or counterclaim against the Company in order to justify withholding payment of any amount in whole or in part. The Company may at any time, without limiting any other rights or remedies it may have, set-off any amount owing to it by the Customer against any amount payable by the Company to the Customer.
- 6.11 All payments payable to the Company under the Contract become due immediately on its termination despite any other provision.
- 7. RETURNS AND CANCELLATIONS**
- 7.1 Subject to condition 3.10, the Company, at its discretion may accept returns of Goods supplied subject to:
- written consent having been given by the Company prior to the return of the Goods;
 - the Goods being in the same condition as on delivery by the Company; and
 - the cost (including insurance and transportation) of returning the Goods being paid by the Customer.
- 7.2 The Company reserves the right to charge a handling fee of 15% of the price of the Goods returned pursuant to condition 7.1.
- 7.3 The Customer cannot cancel an Order that has been accepted by the Company without the prior written consent of the Company. In the event that the Customer cancels delivery of the goods the Customer shall be liable for any costs incurred by the Company up to the time of cancellation.
- 7.4 The Company may cancel an Order that has been accepted by the Company at any time before the Goods are delivered by giving written notice to the Customer. The Company shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 7.5 If the Customer is a Consumer, nothing in this Condition 7 restricts, limits or modifies the Customer's rights or remedies against the Company for a failure of the statutory guarantees under the ACL.

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8. TERMINATION

8.1 If the Customer fails to comply with the Conditions or if the Customer becomes subject to any of the events listed in condition 8.2, or the Company reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to the Company, the Company may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and the Company without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer become immediately due.

- 8.2 For the purposes of condition 8.1, the relevant events are:
- (a) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed to be insolvent within the meaning of section 95A of the Corporations Act, or (being an individual) is deemed to have committed an act of bankruptcy within the meaning of section 40 of the *Bankruptcy Act 1966* (Cth), or (being a partnership) has any partner to whom any of the foregoing apply;
 - (b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - (c) (being an individual) the Customer is the subject of a bankruptcy petition or order;
 - (d) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - (e) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
 - (f) (being a company) a floating charge holder over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
 - (g) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
 - (h) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 8.2(a) to condition 8.2(g) (inclusive);
 - (i) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
 - (j) the financial position of the Customer deteriorates to such an extent that in the opinion of the Company the capability of the Customer adequately to fulfil its obligations under the Contract has been placed in jeopardy;
 - (k) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of fulfilling the obligations of the Contract; or
 - (l) (being a Company) there is a change of control of the Customer (within the meaning of section 50AA of the Corporations Act).

9. LIMITATION OF LIABILITY

- 9.1 Subject to condition 3 and condition 4, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- (a) any breach of these Conditions;
 - (b) any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods; or
 - (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 9.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by the ACL) are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3 Nothing in these Conditions limit or exclude the Company's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by the ACL;
 - (d) defective products under the ACL; or
 - (e) any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.
- 9.4 Subject to conditions 9.2 and 9.3:
- (a) the Company is not liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or loss of business or depletion of goodwill in each case whether direct, indirect or consequential arising under or in connection with the Contract (howsoever caused); and

(b) subject to Condition 9.6, the Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by a deliberate breach of the Contract by the Company, its employees, agents or subcontractors is limited to the price paid by the Customer for the Goods.

- 9.5 If the Customer is a Consumer, nothing in this Condition 9 restricts, limits or modifies the Customer's rights or remedies against the Company for failure of a statutory guarantee under the ACL.
- 9.6 If the Customer on-supplies the Goods to a person who is a Consumer:
- (a) if the Goods are not of a kind ordinarily acquired for personal, domestic or household use or consumption, then the amount specified in section 276A(1) is the absolute limit of the Company's liability to the Customer; and
 - (b) otherwise, payment of any amount required under section 274 of the ACL is the absolute limit of the Company's liability to the Customer, howsoever arising under or in connection with the sale, installation, use of, storage or any other dealings with the Goods by the Customer or any third party.

10. FORCE MAJEURE

Neither party is liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A "Force Majeure Event" means any event beyond a party's reasonable control, other than an obligation to pay money, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

11. NOTICES

- 11.1 Any notice or other communication given to a party under or in connection with the Contract must be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this condition, and will be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier, fax or e-mail.
- 11.2 A notice or other communication will be deemed to have been received:
- (a) if delivered personally, when left at the address referred to in condition 11.1;
 - (b) if sent by pre-paid platinum post or express post within Australia, at 9.00 am on the second Business Day after posting;
 - (c) if delivered by regular mail within Australia, the third Business Day after posting;
 - (d) if delivered internationally by mail, within 7 Business Days after posting;
 - (e) if delivered by commercial or international courier, on the date and at the time that the courier's delivery receipt is signed;
 - (f) if sent by fax, on the day of sending the fax; or
 - (g) if sent by email, on the day of sending of the email.
- 11.3 The provisions of this condition do not apply to the service of any proceedings or other documents required to be served in any legal action before a court.

12. GENERAL

- 12.1 The Company may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 12.2 The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Company.
- 12.3 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision must, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract are not affected.
- 12.4 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision will apply with the minimum modification necessary to make it legal, valid and enforceable.
- 12.5 A waiver of any right or remedy under the Contract is only effective if given in writing and must not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law constitutes a waiver of that or any other right or remedy, nor will it preclude or restrict the further exercise of that or any other right or remedy. A single or partial exercise of a right or remedy does not preclude or restrict the further exercise of that or any other right or remedy.

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- 12.6 A person who is not a party to the Contract has no rights under or in connection with it.
- 12.7 The Company reserves the right to vary these conditions from time to time in its absolute discretion. Where the Company does so, it will provide written notice of the changes to the Customer.
- 12.8 The Company may carry out a credit search against the Customer and the Customer acknowledges and agrees that the Company may pass its details to credit reference agencies for this purpose. The Company will not share any credit search information with a third party without the consent of the Customer.
- 12.9 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), is to be governed by, and construed in accordance with the laws of Western Australia law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of Western Australia.