



THE TERMS AND CONDITIONS OF SUPPLY

- 1 The Applicant agrees that it is not entitled to any credit facility until it receives notification from D'Orsogna Limited in writing stating that the Applicant's Commercial Credit Application has been accepted and that credit facilities have been authorised by D'Orsogna Limited specifying the terms and conditions upon which the credit facilities are accepted. Until the Applicant receives such notification in writing from D'Orsogna Limited, all goods that are supplied to the Applicant shall be paid for at the time of delivery.
- 2 In the event that the Credit Application is approved, the Applicant agrees to pay for all goods sold and delivered, or services provided within seven (7) or fourteen (14) days of receiving an invoice (whichever has been approved by D'Orsogna Limited).
- 3 If the Applicant fails to pay any money payable to D'Orsogna Limited on the due date for payment, the Applicant must pay interest on that money from the due date of payment until the date that the money is paid in full (both dates inclusive). Interest is payable at the rate of 15% per annum, accrues and is payable from the day to day on the basis of days elapsed and a 365 day year, and will be capitalised monthly.
- 4 All payments received by D'Orsogna Limited from the Applicant will be applied as follows:
 - a. first in reduction of interest payable under clause 3; and
 - b. secondly, in reduction of all other money owing to D'Orsogna Limited until such time as all money owing to D'Orsogna Limited has been paid in full.
- 5 The Applicant shall be deemed to have breached these terms and conditions if:
 - a. the Applicant commits an act of bankruptcy or is declared bankrupt;
 - b. a petition for the Applicant's winding up is filed or the Applicant is wound up or the Applicant is placed in receivership, receivership and management or administration or the Applicant enters into any arrangement, composition or compromise (formal or informal) with creditors;
 - c. a cheque for the payment of money is dishonoured;
 - d. a credit card deduction for the payment of money is dishonoured;
 - e. money is unpaid after the due date for payment;
 - f. the Applicant is otherwise in breach of these terms and conditions; or
 - g. the Applicant ceases to trade or carry on business in the usual manner.
- 6 In the event that the Applicant breached these terms and conditions:
 - a. D'Orsogna Limited may cease to supply goods on credit to the Applicant;
 - b. all money in respect to goods supplied shall immediately become due and payable; and
 - c. D'Orsogna Limited may retake possession of the goods supplied and sell them or notify the Applicant that money owing to D'Orsogna Limited in respect of goods supplied to the Applicant are recoverable as a debt or institute legal proceedings for those outstanding money.
- 7 If the Applicant fails to pay D'Orsogna Limited in accordance with these terms and conditions, the Applicant agrees to be liable for all and any such costs incurred by D'Orsogna Limited of and incidental to the recovery of, or attempted recovery of any money due and payable by the Applicant to D'Orsogna Limited including (without limiting the generality of the foregoing) all debt collection agency costs and charges and any other costs, legal or otherwise incurred by D'Orsogna Limited.
- 8 D'Orsogna Limited may amend these terms and conditions at any time and such amended terms and conditions shall apply on respect of all transactions taking place after D'Orsogna Limited has notified the Applicant in writing of the amended terms and conditions.

- 9 The applicant is liable under these terms and conditions as trustee of the Trust and in the Applicant's own right. A reference in these terms and conditions to:
- a. The Applicant, includes the Applicant as trustee of the Trust, and the Applicant in the Applicant's own right; and
 - b. The Applicant's real property includes real property owned by the Applicant as trustee of the Trust and real property owned by the Applicant in the Applicant's own right.
- 10 The Applicant as beneficial owner, and as trustee of the Trust, charges in favour of D'Orsogna Limited all the Applicant's rights, title and interest in any real property in which it now has any legal or beneficial interest or in which it later acquires any such interest (not being limited to any real property described in the Commercial Credit Application), to secure the payment of all money and the observance and performance of the Applicant's obligations under these terms and conditions and consent to the lodging by D'Orsogna Limited of a caveat or caveats over that real property in respect of this charge.
- 11 The Applicant shall no later than fourteen (14) days prior to any proposed change of ownership, change in registered particulars, alteration, addition to the shareholding or directorship, notify D'Orsogna Limited of the proposed change or otherwise the Applicant shall be liable for any goods supplied by D'Orsogna Limited after such change, alteration or addition unless D'Orsogna Limited shall have acknowledged in writing acceptance of the intended change, alteration or addition.
- 12 The Applicant agrees that:
- a. title to the goods does not pass to the Applicant until the price of the goods is paid to D'Orsogna Limited in full;
 - b. if, notwithstanding paragraph (a), the Applicant sells or otherwise disposes of the goods before the purchase price of the goods has been paid in accordance with clause 2, it does so as D'Orsogna Limited's fiduciary agent and the proceeds of such sale or other disposal are also property of D'Orsogna Limited and are held by the Applicant or trust for D'Orsogna Limited and
 - c. risk passes to the Applicant upon delivery of the goods.
- 13 The Applicant acknowledges that D'Orsogna Limited will have a purchase money security interest in the goods previously supplied by D'Orsogna Limited (if any) and all goods that will be provided in the future.
- 14 The Applicant acknowledges that D'Orsogna Limited's rights and interest in proceeds derived from the goods constitute a security interest in such goods.
- 15 D'Orsogna Limited may (at the Applicant's expense) register any security interest contemplated by these terms and conditions on the PPSR in any manner it chooses (including by registering one or more financing statements in relation to its interest in the goods, with such expiry dates as D'Orsogna Limited determines in its absolute discretion). The Applicant must provide D'Orsogna Limited with any information it requires for the purposes of effecting such registration.
- 16 For the purposes of section 157 (3) of the PPSA, the Applicant irrevocably and unconditionally waives its rights to receive any notice from D'Orsogna Limited in connection with the registration of a financing statement or a financing change statement in respect of the goods.
- 17 Without limiting any other provision of this agreement, the Applicant is in default under this agreement for the purposes of section 123 (1) of the PPSA if any other secured party:
- a. seizes the goods (whether under PPSA, section 123 or otherwise) for the purpose of enforcement; or
 - b. becomes entitled to seize the goods.
- 18 The parties agree that other than the existence of a security interest in any goods, and details of the relevant goods, and the amount (if any) owing by the Applicant to D'Orsogna Limited from time to

time in relation to any goods, all other information relating to this agreement is subject to a duty of confidence, and must not be disclosed to any party other than:

- a. to a related body corporate of D'Orsogna Limited (the Applicant);
- b. to an advisor, employee, banker, auditor or other consultant of D'Orsogna Limited (or the Applicant);
- c. to a potential assignee of D'Orsogna Limited; or
- d. as required by any law (other than section 275 of PPSA) or by any government body or stock exchange.

- 19 The Applicant agrees that any action taken by D'Orsogna Limited in relation to D'Orsogna Limited's security interest in goods is at the cost of the Applicant.
- 20 D'Orsogna Limited need not give any notice under the PPSA (including a notice of verification statement) unless the notice is required by the PPSA and cannot be excluded.
- 21 The Applicant must take any steps D'Orsogna Limited reasonably requires to perfect or otherwise ensure the enforcement and priority of any security interest granted to it under this agreement, including, at the request of D'Orsogna Limited:
 - a. obtaining and giving any consents;
 - b. producing and providing any receipts or information (including serial numbers) in respect of the goods;
 - c. signing or procuring the signing of any documents;
 - d. facilitating registration of any security interest on the PPSR;
 - e. facilitating the giving of notice to any person, including any person who also has, or appears to have, a security interest over the Applicant or the goods; and
 - f. facilitating the exercise of D'Orsogna Limited's rights in enforcing any security interest
- 22 If any part of these terms and conditions or any related document is or becomes void or unenforceable that part is severed so that all parts which are not void or unenforceable remain in full force and effect and are unaffected by the severance.
- 23 This document is governed by and is to be construed in accordance with the laws applicable in Western Australia. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

PRIVACY STATEMENT

- 24 The Applicant is aware that under section 18E (8) (c) of the Privacy Act, D'Orsogna Limited is allowed to give a credit reporting agency personal information about the Applicant. The information, which may be given to an agency, is detailed in Section 18E(1) of the Privacy Act,
- 25 The Applicant agrees that D'Orsogna Limited considers it relevant in assessing the Credit Application, D'Orsogna Limited may obtain a credit report from a credit reporting agency containing the personal credit information regarding the Applicant.
- 26 The Applicant agrees that D'Orsogna Limited may give to and seek from any credit providers named in the Credit Application as "Trade References" and any credit providers that may be named in a credit report issued by a credit reporting agency, information about the Applicant's credit arrangements. The Applicant understands that this information may include any information about the Applicant's credit worthiness credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act.

GST

27 If GST is payable by D’Orsogna Limited on a supply of goods, the Applicant will pay to D’Orsogna Limited an amount equal to the GST payable on the supply. The Applicant will pay that amount in addition to and at the same time that the price for the goods is due and payable and D’Orsogna Limited will provide the Applicant with a tax invoice.

DEFINITIONS AND INTERPRETATION

28 In these terms and conditions:

Applicant means the person named in the Commercial Credit Application.

Credit Application means the Applicant’s application to D’Orsogna Ltd for Commercial Credit, to which these terms and conditions are attached.

D’Orsogna Limited means D’Orsogna Limited ABN 27 631 427 752

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

PPSR means the Personal Property Securities Register.

Privacy Act means the Privacy Act 1998 (Cth).

Trust means, if the Applicant is named in the Credit Application as the trustee of a trust, that trust.

29 Words and expressions which are not defined in these terms and conditions but which have a defined meaning in the PPSA have the same meaning as in the PPSA.

30 Words and expressions which are not defined in these terms and conditions but which have a defined meaning in GST law have the same meaning as in GST law.

31 An obligation of two or more persons binds them separately and together.