

COVENTRY GROUP LIMITED (ACN 008 670 102) (CGL) - TERMS AND CONDITIONS

These Terms and Conditions, and any amendments published from time to time on CGL's website at www.cgl.com.au (**Terms**) apply to all tenders, Quotations, orders and contracts whenever CGL supplies, provides or delivers any Goods or Services to any person (**Customer**). By requesting, ordering, purchasing or receiving delivery of any Goods or Services the Customer is deemed to have accepted these Terms and to have agreed that they apply to the exclusion of all other, unless agreed in writing.

1 General

- 1.1 A Quotation or tender made by CGL shall not be construed as an offer or obligation to supply in accordance with the Quotation or tender.
- 1.2 A Quotation or tender made by CGL shall remain valid for 30 days or such other period as stated in it (whichever is the lesser) from the date of the Quotation or tender and shall always incorporate these Terms.
- 1.3 Any Quotation or sale invoice made by CGL is made on a supply only basis. Installation and commissioning (if any) is at the expense of the Customer unless otherwise specified in writing by CGL.
- 1.4 Any order or offer made by any Customer shall not be binding on CGL until accepted by CGL in writing or in such manner as CGL in its sole discretion determines.
- 1.5 CGL will not be bound by any conditions attached to the Customer's order or acceptance of a Quotation and, unless such conditions are expressly accepted by CGL in writing, the Customer acknowledges that the Customer's conditions are expressly negated.
- 1.6 Every Quotation is subject to and conditional upon obtaining any necessary import, export or other licence.

2 Conditions of Supply

- 2.1 Where the Customer is a Proprietary Limited Company, CGL reserves the right to request a personal guarantee from the Directors of that company. The Customer agrees to pay the account in accordance with CGL's Terms.
- 2.2 CGL reserves the right to suspend or discontinue the supply of Goods or Services to the Customer without notice and without being obliged to give any reason for its action.
- 2.3 Unless otherwise agreed in writing, if CGL prepays freight, insurance, custom and import duties (if any), landing and delivery charges and all other charges in connection with shipment and delivery of the goods, then any such charges shall be to the Customer's account.
- 2.4 Any charge, duty, impost, sales tax or other expenditure which is not applicable at the date of Quotation or Sales Invoice but which is subsequently levied upon CGL in relation to a Quotation or Sales Invoice as a result of the introduction of any legislation, regulation or governmental policy, shall be to the Customer's account.
- 2.5 Where Goods are imported into Australia, any adverse variation in the price arising from fluctuation in exchange rates between the date of the Customer's order and the date of payment by CGL will be to the Customer's account.

3 Change of Ownership

- 3.1 In the event the ownership, effective control, directors, ABN, ACN, trading or legal entity name of the Customer changes, CGL must be notified in writing no later than 14 days prior to the change (**Notice of Change**). Upon such change being made, CGL is entitled to immediate payment by the Customer of a sum equal to the cost of Goods and/or Services which remain unpaid by the Customer upon expiration of the Notice of Change. Until such Notice of Change is received and acknowledged by CGL, liability for any unpaid account will remain with the Customer as disclosed in CGL's records.

4 Prices

- 4.1 Prices for Goods are set out in accordance with CGL's price list, which is subject to change from time to time without notice (unless stated otherwise in writing).
- 4.2 The price payable by the Customer is the price quoted at the date of raising an invoice in respect of the Goods.
- 4.3 CGL may from time to time, charge reasonable storage fees.

- 4.4 Unless stated otherwise, the prices quoted by CGL for the supply of Goods and/or Services exclude GST. The Customer must pay GST at the same time as paying the price.
- 4.5 Unless otherwise stipulated, all references to dollars are references to the currency of Australia.
- 4.6 Where CGL has provided the Customer with a Quotation in relation to the supply of Goods, CGL's standard terms of Quotation will apply in conjunction with these Terms and to the extent of any inconsistency, the Quotation terms will prevail.
- 4.7 CGL must be notified by the Customer of any pricing claims it may have against CGL.

5 Payment

- 5.1 If Goods are sold to the Customer on credit then all invoiced amounts are payable within 30 days end of month (being due on the last Business Day following the month of invoice), unless agreed otherwise by CGL in writing. If Goods are not paid for within the agreed terms, the full balance outstanding will become due and payable.
- 5.2 If Goods are sold to the Customer without credit, then payment is required to be made by the Customer to CGL prior to despatch or pick up of the Goods.
- 5.3 Receipt by CGL of any form of payment shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 5.4 The Customer may not make any deduction or set off from any amount payable to CGL in respect of any set off or counterclaim to be held back for retention.
- 5.5 If at any time any monies payable by the Customer under these Terms are not paid to CGL on the due date, then:
 - (a) all money which would become payable by the Customer to CGL at a later date on any account will become immediately due and payable without the requirement for any notice to the Customer;
 - (b) the Customer shall pay interest at the rate of 15% per annum on any amount overdue from the due date for payment until the date payment is made in full; and
 - (c) CGL may cease or suspend supply of any further Goods or Services to the Customer or terminate any uncompleted Agreement with the Customer.
- 5.6 CGL may demand immediate payment of all monies owing by an Customer in the event that an Customer:
 - (a) is a natural person and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with, or for the benefit of, his or her creditors or any class of his or her creditors generally; or
 - (b) is a corporation and it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, administrator, receiver, manager or similar functionary appointed in respect of its assets, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer.
- 5.7 The Customer hereby agrees to indemnify and/or reimburse CGL in relation to any costs and expenses (including legal costs) incurred by CGL in attempting to recover amounts owed by the Customer to CGL or to recover any Goods, pursuant to these Terms.
- 5.8 Further to any other rights or remedies CGL may have under these Terms, if the Customer has made payment to CGL, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by CGL under this clause where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under these Terms.

6 Shipment and Delivery

- 6.1 If agreed, or if Goods are ordered via the CGL's website, CGL will arrange for delivery of the Goods.
- 6.2 Delivery of the Goods is taken to occur at the time that:
 - (a) the Customer or the Customer's nominated carrier takes possession of the Goods at CGL's address; or
 - (b) CGL (or CGL's nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address.

- 6.3 At CGL's sole discretion, the cost of delivery is either included or is in addition to the Price. The Customer must pay to CGL on demand any delivery costs incurred by CGL if the Customer elects to use an independent courier to deliver the Goods and enters into a separate Agreement with that independent courier to deliver the Goods or if the Customer requests an alternate method of delivery from that which CGL was planning to provide.
- 6.4 Unless otherwise agreed, CGL shall select the route and means of delivery of the Goods to the premises of the Customer or premises nominated by the Customer.
- 6.5 The Customer undertakes to provide adequate and proper facilities for the reception and storage of Goods and warrants that those facilities comply with all statutory regulations and that all permits and licenses have been obtained.
- 6.6 If the preparation of the Customer's order or the delivery of any supply is suspended by the Customer's instructions or failure to instruct, the price may be increased to cover any extra expenses incurred by CGL directly or indirectly as a consequence of the instructions or failure to instruct. If the Customer is unable to take the Goods when they are ready for dispatch, then CGL may invoice the Customer for storage of such Goods.
- 6.7 Risk of loss to Goods will pass to the Customer on the earlier collection of Goods by the Customer, delivery of Goods to the Customer by CGL and delivery of Goods by CGL to a carrier for the purposes of delivering Goods to the Customer.
- 6.8 CGL may supply Goods and/or Services in instalments (each constituting a separate sale of Goods) and these Terms will apply to each supply. A part delivery of an order shall not invalidate the balance of an order.
- 6.9 CGL will not be liable for any delay in delivery of Goods. Delivery dates are estimates only and CGL is not liable for any loss or damage due to a failure to deliver by the estimated date.
- 6.10 The Customer may only request proof of delivery within 30 days of the delivery date.

7 Inspection and Returns

- 7.1 The Customer will have no claim for shortages or defects in respect of any Goods that are apparent on inspection unless a written complaint is delivered to the CGL division named in the relevant Sales Invoice within 2 days of receipt of the Goods that specifies the shortage or defect. When any non-compliance with a Customer's order is accepted by CGL, CGL may, at its option, replace the Goods or refund the price of the Goods.
- 7.2 The Customer must notify CGL of any return within 30 days of the date of the relevant invoice.
- 7.3 CGL will only, at its option, accept the return of and give a credit for Goods where:
 - (a) Customer has complied with clauses 7.1 and 7.2 under these Terms; and
 - (b) CGL is satisfied as to the claim by the Customer. CGL has the right to inspect the Goods at all times.
- 7.4 Unless otherwise agreed, returns other than as required pursuant to the ACL, must be approved by the CGL Division named in the relevant Sales Invoice.
- 7.5 All Goods returned for credit must be in their original pack, including all original boxes, packaging, codes, instruction sheets and/or manuals and accessories as supplied by the manufacturer, and in a re-saleable condition. All products (and packaging) returned must be in undamaged condition and must be freight pre-paid (unless the return is due to CGL error).
- 7.6 In the case of Goods that at the request of the Customer have been specifically sourced, CGL will only accept return of the Goods for credit. In the case of buy-ins against a Customer's order, a credit will only be allowed if the original manufacturer/supplier also accepts return of the Goods.
- 7.7 In the event that CGL elects to have the Goods returned, the Goods must be returned to CGL in the same condition as when they were first delivered to the Customer with the relevant invoice number and date of order. CGL will not accept the return or give a credit for any Goods that are non-standard or non-catalogue items (being purchased or manufactured to customer's specification or ordered in as a customer special order). Unless required by the ACL, all goods marked as Non-Returnable, Buy-in or Specially Manufactured / Made to Order are not returnable.
- 7.8 All Goods returned will be subject to a minimum handling/re-stocking charge of 20% of the invoiced price except in the case of defective Goods or Goods that have been incorrectly supplied.

- 7.9 Unless required by law, CGL will not accept any returned Goods from the Customer unless a return merchandise authority is obtained from the manufacturer of the Goods.
- 7.10 If CGL, in its sole opinion, determines that any fault in the Goods has been caused by incorrect installation, CGL will not be liable to replace the Goods.
- 7.11 Any Goods that are returned under warranty will be inspected by CGL and tested in CGL's facility before any replacement of Goods will be offered to the Customer.

8 Warranties

- 8.1 CGL makes no express or implied warranties in connection with the supply of Goods by CGL to the Customer under these Terms.
- 8.2 Except as the Terms specifically state, or as contained in any express warranty provided in relation to the Goods or Services, the supply of the Goods and/or Services does not include by implication any other term, condition or warranty in respect of the quality, merchantability, acceptability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the Goods or Services or any contractual remedy for their failure.
- 8.3 If the Customer is a consumer nothing in these Terms restricts, limits or modifies the rights, entitlements, remedies or liabilities of either party for failure of any condition or warranty implied by any Commonwealth, State or Territory Act (including but not limited to the ACL) or any other law rendering void or prohibiting such exclusion or modification.
- 8.4 If the Customer on-supplies the Goods to a person who is a consumer, or uses up or transforms the Goods in the course of trade then:
- (a) if the Goods or Services are not of a kind ordinarily acquired for personal, domestic or household use or consumption, then the amount specified in section 276A(1) of the ACL is the absolute limit of CGL's liability to the Customer;
 - (b) otherwise, payment of any amount required under section 274 of the ACL is the absolute limit of CGL'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 or Services by the Customer or any third party.
- 8.5 If clauses 8.4(a) and (b) do not apply, then other than as stated in the Terms or on any written warranty statement, CGL is not liable to the Customer in any way in respect of the sale, installation, use of, storage or any other dealing with the Goods or Services by the Customer or any third party.

9 Limitation of Liability

- 9.1 In respect of any non-excludable warranties, CGL's liability for breach of such conditions or warranties and the Customer's remedy in relation to such breaches shall be either:
- (a) replacing the Goods;
 - (b) repairing the Goods; or
 - (c) refunding the Price paid for the relevant Goods.
- 9.2 The warranties provided by CGL and a manufacturer of the Goods are void on all Goods sold where:
- (a) those Goods have been installed by persons other than an installer authorised to install the Goods, and/or
 - (b) the Goods have been installed other than in accordance with the instruction manual for the Goods.
- 9.3 Notwithstanding the above-mentioned clauses but subject to the ACL, CGL 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 Customer failing to properly maintain or store any Goods;
 - (b) the Customer using the Goods for any purpose other than that for which they were designed;
 - (c) the Customer 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 Customer failing to follow any instructions or guidelines provided by CGL; or
 - (e) fair wear and tear, any accident, or act of God.
- 9.4 To the extent permitted under the Australian Consumer Law, the Customer must not make a claim or demand against CGL or its agents for consequential, indirect, special, incidental,

exemplary or economic damage, expenses or loss (including loss of use, loss of goodwill, loss of revenue, loss of profit, business interruption, costs of procurement or substitution of goods, technology or services or loss of information) arising in connection with the supply of Goods or Services (including non-delivery or late delivery of Goods) pursuant to these Terms (including any claim in negligence, equity or otherwise). The Customer agrees that this provision is necessary to protect CGL's business.

- 9.5 Without limiting clause 9.4, CGL accepts no responsibility or liability for any loss or damage arising out of or in connection with any personal injury, illness or death to any person or damage to any property or any other loss or damage of any kind whatsoever caused by the supply of Goods.
- 9.6 To the extent permitted under the Australian Consumer Law, the Customer indemnifies CGL from and against liability and any loss or damages that it or its related bodies corporate suffer, incur or are liable for as a direct or indirect result of:
- (a) any breach of these Terms;
 - (b) any injury or harm suffered by an employee, agent or contractor of CGL on the premises of the Customer or any other premises that employees, agents or contractors of CGL are required by the Customer to attend;
 - (c) any claim by any person in respect of or arising out of or in connection with any of the matters referred to in clause 9.5;
 - (d) in connection with the use of CGL's website; or
 - (e) any conduct which may be considered misleading or deceptive, by the Customer or its agents.
- 9.7 The Customer expressly acknowledges and agrees that:
- (a) it has not relied upon, any service involving skill and judgement, or on any advice, recommendation, information or assistance given by CGL, its agents or employees in relation to the Goods or Services or their use or purpose.
 - (b) it has not made known, whether expressly or by implication, to CGL any purpose for which it requires the Goods or Services and it has the sole responsibility of satisfying itself that the Goods or Services as suitable for the use of the Customer.
 - (c) nothing in the Terms is to be interpreted as excluding, restricting or modifying the application of any non-excludable State or Federal legislation applicable to the sale of Goods or supply of Services.

10 Risk and Title

- 10.1 Risk of damage to or loss of Goods passes to the Customer on delivery of the Goods to the Customer or agent of the Customer or to a carrier commissioned by the Customer or at the Customer's direction (whichever happens first).
- 10.2 If the Customer requests CGL to leave Goods outside the Customer's premises for collection or to deliver the Goods to an unattended location, then such Goods shall be left at the Customer's sole risk.
- 10.3 Ownership of and title to the Goods is retained by CGL and shall not pass to the Customer until CGL receives payment in full (and all payments have been cleared) for the Goods (notwithstanding any intermediate payment in settlement of any particular account) and the Customer has met all of its other obligations to CGL.
- 10.4 Until title in the Goods passes to the Customer:
- (a) the Customer must:
 - i. hold the Goods as bailee of CGL; and
 - ii. insure the Goods against all risks for their full price from the date of delivery.
 - iii. store the goods in a manner which shows clearly that they are the property of CGL; and
 - (b) CGL authorises the Customer to use the Goods or sell them for full consideration in the course of its business, provided that the proceeds of such sale or use (in whatever form and including proceeds from insurance claims) shall be the property of CGL and the Customer must hold such proceeds on trust for CGL and deal with them as CGL directs. This authority automatically terminates if the Customer breaches these Terms, the Customer trades outside the terms of the Customer's credit facilities (if any), becomes insolvent the Customer enters into bankruptcy, an Administrator or Receiver is appointed over all or any of the business undertaking of the Customer or the Customer is served with a Statutory

Demand pursuant to the Corporations Law or any Guarantor of the Customer's indebtedness to CGL revokes its Guarantee or CGL decides, in its absolute discretion, to revoke such authority;

- (c) upon termination of the authority granted under sub-clause (b) above, CGL may take possession of any Goods for which it has not yet received payment and enter any premises where such Goods may be located and all amounts owing by the Customer in respect of the Goods together with all other debts owing by the Customer to CGL will become due and payable and must be paid by the Customer on demand by CGL;
- (d) CGL will be entitled (without prejudice to any other rights or remedies provided under these Terms or otherwise) to:
 - i. suspend indefinitely all further deliveries or Goods in respect of any order or any other orders being processed for delivery and cancel any order or refuse to accept any further orders with respect to the Customer;
 - ii. cancel any credit facility provided to the Customer;
 - iii. require the return of all Goods to CGL for Goods to which ownership has not passed in accordance with these Terms;
 - iv. terminate any Agreement by written notice to the Customer.
- (e) CGL will not be liable for any loss (including any loss resulting from negligence) that may be suffered by the Customer as a result of CGL taking any action under this Clause 10.
- (f) the Goods are inventory for the purposes of the PPSA; and
- (g) CGL retains a security interest in all Goods supplied by CGL to the Customer.

10.5 If the Customer trades outside the Terms of the Customer's credit facilities, or the supply of Goods or Services to the Customer will result in the Customer trading outside the Terms of the Customer's credit facilities (in particular the Maximum Credit Limit), CGL may, amongst other things, refuse to supply Goods to the Customer regardless of an order having been accepted. CGL will not be liable for any loss resulting directly or indirectly from such action.

10.6 The Customer and Seller agree that the provisions of this clause apply notwithstanding any arrangement under which CGL grants credit to the Customer.

11 Dimensions, Performance Data and Descriptive Details

11.1 If the Buyer is a consumer, nothing in this clause limits any remedy available pursuant to the ACL. To the greatest extent permitted by law:

- (a) Photographs, drawings, illustrations, weights, dimensions and any other particulars accompanying, associated with or given in a Quotation, descriptive literature or a catalogue approximate the Goods offered but may be subject to alteration without notice.
- (b) Any performance data provided by CGL or a manufacturer is an estimate only and should be construed accordingly.
- (c) Unless agreed to the contrary in writing, CGL reserves the right to supply an alternative brand or substitute product when necessary.

11.2 Where CGL is the manufacturer of the Goods or is acting as agent for a manufacturer of CGL, CGL shall not be liable for any alteration or variation in the Goods made by the manufacturer or by CGL.

12 Personal Property Securities Act 2009 (Cth) ("PPSA")

12.1 The Customer acknowledges that these Terms constitute a security agreement for the purposes of the PPSA and creates a security interest in all of the Customer's present and after-acquired Goods supplied by CGL at the time of dispatch from CGL's premises. CGL's security interest in the Goods and any proceeds is a Purchase Money Security Interest (PMSI) under the PPSA to the extent that it secures payment of any amount owing in relation to the Goods.

12.2 CGL takes a security interest in all Goods and/or collateral (account), being a monetary obligation of the Customer to CGL for Goods and Services, supplied, and that will be supplied in the future, to the Customer by CGL under these Terms and any proceeds and any accession that secures any money owing or payable by the Customer to CGL, securing the performance by the Customer of its obligations under the Terms.

12.3 The Customer 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 CGL 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 11.3(a)i. or ii.;
 - (b) indemnify, and upon demand reimburse, CGL 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 CGL;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of CGL;
 - (e) immediately advise CGL 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; and
 - (f) procure from any person considered by CGL to be relevant to its security position such agreements and waivers (including as equivalent to those above) as CGL may at any time require.
- 12.4 The Customer shall not create or cause to be created a security interest over, or in respect of its rights in, the Goods other than the security interest arising under these Terms.
- 12.5 The Customer consents to CGL perfecting its interest in any Goods provided by CGL to the Customer by registration under the PPSA and agreed to do anything reasonably requested by CGL to enable it to do so including, but not limited to, executing all documents and promptly informing CGL of any change of name or other details of the Customer.
- 12.6 The Customer confirms that the security interest is a continuing interest irrespective of whether there are monies or obligations owing by the Customer at any particular time.
- 12.7 CGL may allocate amounts received from the Customer in any manner CGL determines, including in any manner required to preserve any PMSI it has in Goods supplied by CGL to the Customer.
- 12.8 CGL and the Customer agree that nothing in sections 96, 125, 129, 142, 143 of the PPSA will apply to these Terms.
- 12.9 The Customer waives its rights as a debtor to receipt of verifications, notifications, disclosures or other documentation under sections 92, 93, 94, 95, 97, 118, 121, 130, 132, 135, 137, 140, and 157 of the PPSA.
- 12.10 The Customer further agrees that where CGL has rights in addition to those under Chapter 4 of the PPSA, those rights will continue to apply. To the extent permitted by the PPSA the Customer agrees that the provisions of Chapter 4 of the PPSA which are for the benefit of the Customer or which place obligations on CGL will apply only to the extent that they are mandatory or CGL agrees to their application in writing.
- 12.11 Subject to any express provisions to the contrary (including those contained in this clause 12), nothing in these Terms is intended to have the effect of contracting out of any of the provisions of the PPSA.
- 12.12 In this clause terms used in this clause 12 that are defined in the PPSA have the same meaning as in the PPSA.

13 Charging Clause

- 13.1 The Customer charges as beneficial owner and as trustee of every trust all the Customers land (including land acquired in the future) in favour of CGL to secure the payment of any amounts owed by the Customer to CGL and the performance and observance of the Customers covenants under these Terms. In this clause trust means each trust for which the Customer holds land as trustee.
- 13.2 The Customer indemnifies CGL against all expenses and legal costs (on an indemnity basis) for preparing, lodging and removing any caveat.
- 13.3 The Customer agrees that any registration of a caveat by CGL over the Customer's property or properties must not be challenged by the Customer in any way whatsoever, and the

Customer agrees not to take any steps in filing a "lapsing notice" to have the caveat removed, until such time that the Customer has paid all monies owing by it to CGL as claimed from time to time.

14 CGL's Cancellation

14.1 If CGL is unable to deliver the Goods, then it may cancel the Customer's order (even if it has been accepted) by written notice to the Customer.

14.2 If the Customer:

- (a) commits a breach of its obligations to CGL under the Terms and does not remedy the default or breach within seven (7) days of written notice of the breach by CGL;
- (b) exceeded any applicable credit limit provided by CGL; or
- (c) is insolvent, a resolution is passed or proposed or an application filed for the winding up of the defaulting party, or an administrator, receiver or receiver and manager, mortgagee in possession or other like officer is appointed in respect of the property or any part of the property of the Customer or the Customer is de-registered or the Customer makes or proposes to make an arrangement with its creditors, or the Customer is placed under official management or execution is levied upon the assets of the Customer,

then CGL may, without prejudice to any other rights or remedies which it may have, refuse to supply the Customer without notice and is entitled to immediate payment of the sum equal to the price of all Goods and/or Services supplied but then unpaid, together with other costs and expenses of collection of any moneys are due and payable by the Customer, including the fees of any mercantile agent or lawyer engaged by CGL on an indemnity basis.

15 Customer's Cancellation

15.1 To the greatest extent permitted under law, the Customer shall have no right to cancel an order which has been accepted by CGL unless otherwise agreed in writing. If a right of cancellation is granted to the Customer, such right of cancellation must be exercised in accordance with the relevant terms of cancellation and by notice in writing from the Customer to CGL with which the order has been placed not later than 7 days prior to the estimated date of shipment by the manufacturer or that Seller as the case may be.

15.2 Unless otherwise agreed between the Customer and CGL, upon cancellation of an order prior to shipment, any deposit paid by the Customer shall be forfeited to the manufacturer or CGL (as the case may be).

15.3 Despite the cancellation of any order for any reason, the Customer must still purchase from CGL any Goods ordered by the Customer which constitute Special Goods (whether in store, in transit or being manufactured) which were procured or ordered by CGL before such cancellation, unless otherwise agreed in writing by CGL.

15.4 If CGL fails to observe or perform any terms of these Terms, and (if the breach can be cured) has failed to rectify the breach within 7 days after being notified in writing of the breach by the Customer, the Customer may at any time in its absolute discretion terminate the Agreement in whole or in part or suspend performance under the Agreement by notice in writing but without prejudice to the other rights of CL at law or under the Agreement.

16 Dispute Resolution

16.1 If a difference or dispute arises between the parties arising out of or in connection with these Terms (**Dispute**), the aggrieved party must send a written notice to the other party setting out the nature of the Dispute, what outcome that party wants and what action they think will settle the Dispute.

16.2 The parties must use reasonable endeavours to resolve the Dispute by mutual negotiation.

16.3 If any Dispute is not resolved within 28 days of the matter arising, either party may require the matter to be referred to mediation by notice to the other party setting out the general nature of the difference.

16.4 If the parties fail to agree on mediation or settle the Dispute by mediation within 28 days of the matter being referred to mediation, then either party may initiate litigation to resolve the Dispute.

16.5 Either party may take immediate steps at any time to seek urgent injunctive or equitable relief before an appropriate court.

17 Force Majeure

17.1 If CGL's performance or observance of any obligations is prevented, restricted or affected by reason of a force majeure event including strike, lock out, industrial dispute, raw material shortage, breakdown of plant, transport or equipment or any other cause beyond CGL's reasonable control (**Force Majeure Event**), CGL may, in its absolute discretion give prompt notice of that cause to the Customer. On delivery of that notice CGL is excused from such performance or observance to the extent of the relevant prevention, restriction or effect. CGL shall not be liable for any delay or failure to perform its obligations pursuant to these Terms if such delay is caused by a Force Majeure Event.

17.2 Despite clause 16.1, the Customer shall be liable to pay to CGL all costs which suppliers or sub-contractors of CGL have incurred directly or indirectly, or for which CGL is liable, as a result of a delay caused by the Force Majeure Event, impossibility of performance or an act or omission of the Customer or its agents and contractors.

18 Competition and Consumer Act 2010 (CCA)

18.1 Where these Terms would otherwise be subject to the CCA, the Customer agrees that the Customer is acquiring the Goods for business purposes and that the CCA does not apply to the supply of the Goods to the Customer.

18.2 If the Customer is a consumer as defined in section 4B of the CCA, and the Customer has not contracted out of the CCA under clause 17.1 of these Terms, nothing in these Terms will limit any rights the Customer may have under the CCA.

19 Privacy

19.1 CGL will adhere to its Privacy Policy set out on CGL's website www.cgl.com.au and the Customer agrees to the collection of personal information by CGL for the purposes set out in the Privacy Policy and in accordance with the Privacy Act 1988 (Cth).

20 Unpaid Seller's Rights

20.1 Where the Customer has left any item with CGL for exchange or for CGL to perform any other service in relation to the item and CGL has not received or been tendered the whole of any monies owing to it by the Customer, CGL shall have, until all monies owing to CGL 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.

20.2 The lien of CGL shall continue despite the commencement of proceedings, or judgment for any monies owing to CGL having been obtained against the Customer.

21 Notices

21.1 All Notices to be given by party under these Terms must be in writing and may be given to the other party by hand delivery, prepaid post, email or facsimile addressed to the other party at its last known address, email or facsimile number or as specified by the other party.

21.2 Any Notice given under these Terms will be deemed as being received by the person to whom it was sent in the case of hand delivery, upon delivery; in the case of prepaid post, 3 days after despatched; and in the case of facsimile or email, upon confirmation of successful transmission.

22 Severance

22.1 If any provision of these Terms and Conditions

- (a) is or becomes void, voidable, illegal or unenforceable in its terms;
 - (b) would not be void, voidable, illegal or unenforceable if it were read down; and
 - (c) is capable of being read down,
- then that provision will be read down accordingly.

22.2 If, notwithstanding clause 21.1, a provision of these Terms and Conditions is still void, voidable, illegal or unenforceable, then:

- (a) if the provision would not be void, voidable, illegal or unenforceable if some words were omitted, those words are severed; and
- (b) otherwise, the whole provision is severed, and
- (c) the rest of these Terms and Conditions will be of full force and effect.

23 Miscellaneous

- 23.1 These Terms are a payment claim under the Building and Construction Industry Security of Payment Act 2002 (Vic).
- 23.2 These Terms are not to be constructed to the disadvantage of CGL because CGL was responsible for their preparation.
- 23.3 These Terms replace any previous terms and conditions previously signed on application of the Customer's account with CGL.
- 23.4 Unless specified otherwise, if GST is payable by a supplier on any supply made under or in relation to these Terms, the recipient must pay to the supplier an amount (GST Amount) equal to the GST payable on the supply.
- 23.5 Any descriptive and shipping specifications, illustrations, drawing, data, dimensions and weights, either submitted by CGL with a Quotation or tender or otherwise provided by CGL to the Customer are illustrative and approximate only and do not form part of any agreement entered into between CGL and the Customer unless expressly agreed in writing by CGL.
- 23.6 Any drawings or other documents submitted and any information supplied by CGL to the Customer remains the property of CGL and constitutes confidential information of CGL (to the extent that it is not in the public domain) and the Customer shall keep all such information confidential and shall not use such drawings, document and information for any purpose other than that stipulated by CGL.
- 23.7 These Terms represent the entire agreement between CGL and the Customer. These Terms will prevail over any Customer's terms and conditions contained in any document between CGL and the Customer and supersede all prior discussions and arrangements.
- 23.8 CGL may transfer any right or liability under these Terms at its absolute discretion. The Customer may not transfer any right or liability under these Terms without the prior written consent of CGL which consent will not be unreasonably withheld.
- 23.9 These Terms are governed by and construed under the law in the State of Victoria. Any legal action in relation to these Terms against any party or its property may be brought in any court of competent jurisdiction in the State of Victoria.
- 23.10 CGL may vary these Terms from time to time. Any such variation will be effective from the date specified by CGL in any written notice provided to the Customer or published on CGL's website www.cgl.com.au. By requesting any Goods after such effective date, the Customer accepts and agrees to be bound by such variation.
- 23.11 Failure by CGL to insist upon strict performance by the Customer of any of these Terms is not to be taken to be a waiver of any rights of CGL and is not to be taken to be a waiver of these Terms.
- 23.12 If a party enters into these Terms as trustee of a trust, that party will be liable under these Terms in its own right and as trustee of the trust. Nothing releases the party from any liability in its own capacity.
- 23.13 To the extent that these Terms are a consumer contract (within the meaning of the ACL) and a standard form contract (within the meaning of the ACL), any term of these Terms which would be void because the term is unfair:
 - (a) must be read down to the extent necessary to avoid that result; and
 - (b) if the provision cannot be read down to that extent, it must be severed without altering the validity and enforceability of the remainder of the Terms.
- 23.14 CGL's website may contain links to other websites and materials obtained through third parties. The Customer should make their own enquiries before relying on the content of any third-party website. CGL will not be liable for any content appearing on the websites that are operated by third parties. CGL's website may contain product information provided by or obtained directly (or indirectly) through third parties and CGL does not verify its accuracy. To the extent that is permissible by law, any material that is provided on CGL's website is provided on an as is and without warranty basis and the Customer acknowledges that it may contain inaccuracies or errors and may be incomplete or out of date. To the extent permitted by law, the Customer's access to the use of CGL's website is subject to these

Terms and all applicable laws and is conducted at the Customer's own risk. CGL disclaims all liability for loss or damage (being direct or indirect) that may arise out of the use of CGL's website or reliance on the content therein.

- 23.15 CGL take no responsibility and will not be liable for Goods or Services ordered incorrectly on CGL's website by a Customer or a third party.
- 23.16 Any images of Goods displayed on CGL's website are for illustration purposes only and CGL will make every effort to display all Goods correctly but will not be responsible for Goods that do not matching the image displayed on the website exactly.
- 23.17 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.
- 23.18 The Customer must not assign or transfer any of their rights or obligations in connection herewith to any other person whatsoever.
- 23.19 These Terms shall be governed by the laws of Victoria. The parties agree to submit to the exclusive jurisdiction of the Courts of Victoria

24 Interpretation and Definitions

24.1 In this Terms:

ACL means the Australian Consumer Law set out in the Schedule of the Competition and Consumer Act 2010 (Cth) as amended;

Agreement means the agreement constituted by the acceptance of:

- (a) these Terms by the Customer for supply of Goods and/or Services by CGL and/or
- (b) the Credit Application made by the Customer (including the Credit Terms) by CGL;

Business Day means any day except a Saturday or Sunday or any other date, the whole or any part of which is observed as a public holiday throughout the State of Victoria;

CGL means Coventry Group Limited (ABN 37 008 670 102) (ACN 008 670 102) which is the proprietor of the trading divisions Coventry Fasteners, Konnect, Cooper Fluid Systems, Torque Industries, HIS Hose and Artia;

consumer is as defined in the ACL and in determining if the Customer is a consumer, the determination is made if the Customer is a consumer under the Agreement;

Customer means the party or parties defined as the Applicant in the Credit Application or the person purchasing Goods or Services from CGL;

Goods means goods supplied or ordered under this Agreement;

GST means the goods and services tax as imposed by the GST Law together with any related interest, penalties, fines or other charge;

GST Law has the meaning given to that term in A New Tax System (Goods and Services) Act 1999 (Cth) as amended;

Maximum Credit Limit means the sum referred to in paragraph 3.1 of the Conditions which is the aggregate maximum credit limit to be extended to the Customer by CGL. This, however, does not limit the liability of the Customer and Guarantors to CGL;

Payment means any amount payable under or in connection with a Quotation or Sales Invoice including any amount payable by way of indemnity, reimbursement or otherwise (other than GST) and includes the provision of any non-monetary consideration;

person includes an individual, the estate of an individual, a body politic, a corporation, an association (incorporated or unincorporated) and a statutory or other authority;

PPSA means the Personal Property Securities Act 2009 (Cth) as amended from time to time;

Quotation means the form of quotation submitted by CGL to the Customer in which these Terms are deemed to be incorporated;

Sales Invoice means the sales invoice issued by CGL to the Customer in which these Terms are or are deemed to be incorporated;

Services means services supplied by CGL to the Customer;

Special Goods means any goods which are, at the Customer's request, embellished, embroidered, printed, machined, cut-to-size or specifically ordered for the Customer; and

Terms means these trading Terms and Conditions forming part of the Agreement;

24.2 In these Terms unless the context otherwise requires:

- (a) a reference to a party includes a reference to the party's successors and permitted assigns and any person claiming under or through the party;

- (b) every agreement or obligation expressed or implied in this Deed by which two or more persons agree or are bound shall bind such persons jointly and each of them severally;
- (c) a reference to a group of persons includes a reference to all of them collectively, any two or more collectively and each of them individually; and
- (d) "including" and similar expressions means "including, but not limited to".