



PROMISE TERMS & CONDITIONS

To validate the Livadi Lifetime Promise, The Livadi Ring Size Promise, The Livadi Ring Style Promise or the Livadi Upgrade Promise the purchaser of the relevant Livadi creation must first register their purchase on this website within 60 calendar days of purchase. The date of purchase of the original Livadi piece and not the date of any subsequent exchange is the relevant date of commencement of the relevant warranty or promise period. The original purchaser only must make the registration. No claim will be valid unless the Livadi hallmark is visible on your Livadi creation at the time of claim and the original proof of purchase is produced by the original purchaser of the Livadi creation at the time of claim.

1. Livadi Lifetime Promise

The Livadi Lifetime Promise covers all manufacturing defects. It excludes damage resulting from general wear and tear including but not limited to accident, scratches, missing or precious stones or plating damage. The Livadi Warranty is void where a Livadi creation is repaired, resized or altered in any way by any entity other than Livadi.

2. Livadi Ring Size Promise

Valid for 12 months from the date of purchase in respect of one full ring size decrease or increase as required. Ring size changes in excess of one full size will incur additional charges.

3. Livadi Ring Style Promise

Valid for 24 months from the date of purchase.

Exchange can only occur in respect of Livadi rings of the same or lesser value of the original Livadi ring purchase price. No refund will be made in respect of the difference (if any) between the original purchase price and the replacement value to the extent that a customer chooses to replace with a Livadi ring of lesser value. To exercise the Livadi Ring Style Promise, a small fee is payable at the time of exercise.

4. Livadi Upgrade Promise

Valid for 24 months from the date of purchase.

Upgrade your Livadi ring at any time within 24 months of your purchase by returning your Livadi ring to your retailer and paying the difference in price between your Livadi ring and the more expensive Livadi ring, plus a small fee. To exercise the Livadi Upgrade Promise, a small fee is payable at the time of exercise.



Palloys Terms & Conditions of Sale

By submitting a credit application and/or ordering goods and services ("goods") from Palloys Pty Ltd ABN 73 002 640 655 trading as Livadi ("Supplier"), you ("Customer") agree that the following terms and conditions of sale shall apply to the supply. These terms and conditions replace any previous terms and conditions of sale. These terms and conditions create a security interest in favour of the Supplier for the purposes of the Personal Property Securities Act 2009.

1. DEFINITIONS

In these terms and conditions, the following definitions apply:

- a. "CAD File(s)" means the computer aided design file(s) and/or drawing(s) prepared by Supplier for the purposes of implementing the project at the request of the customer;
- b. "Consumer" means a consumer as that term is defined in the Australian Consumer Law;
- c. "Customer" means a person whose Order for the purchase of goods is accepted by the Supplier;
- d. "Intellectual Property Rights" means intellectual property rights at any time protected by statute or common law, including copyright, trademarks, patents and registered designs;
- e. "Loss" includes, but is not limited to, costs (including party to party legal costs and the Supplier's legal costs), expenses, lost profits, award of damages and personal injury and property damage;
- f. "Order" means a purchase Order for goods placed by the Customer and as varied in writing from time to time by the parties;
- g. "PPSA" means the Personal Property Securities Act 2009;
- h. "Purchase Monies Securities Interest" or "PMSI" has the meaning given in section 14 of the PPSA as amended from time to time;
- i. "Refining Fees" means the fees and charges agreed between the parties for the provision of refining services and includes a charge per gross ounce of material received and a metal retention for contained precious metals to cover refining costs;
- j. "Related Bodies Corporate" means a body corporate that is related to the Supplier by virtue of section 50 of the Corporations Act 2001;
- k. "Supplier" means Palloys Pty Ltd ABN 73 002 640 655 or any of its Related Bodies Corporate or their respective assigns trading under various firm names or styles;
- l. "Supplier's Address" means 8-10 Meeks Road, Marrickville, NSW, 2204; and
- m. "Terms of Credit" means the Supplier Terms of Credit as agreed by the Supplier at the time the Customer's account was established or as subsequently altered by the Supplier.

2. INTERPRETATION

- a. The headings used do not form part of these terms and conditions and are for convenience only.
- b. Where the context admits or requires words importing, the singular number shall include the plural number, those denoting a given gender shall include all other genders and those denoting natural persons shall include corporations.
- c. "Including" is not a term of limitation.

3. GENERAL

- a. Unless otherwise specifically agreed in writing by the Supplier, where any terms and conditions of the Customer's Order are inconsistent with these terms and conditions, then these terms and conditions will prevail. Any variations or additions to these terms and conditions not expressly agreed to in writing by the Supplier are expressly rejected by the Supplier.

- b. A quotation shall not constitute an offer to sell goods to the Customer. No contract for the supply of goods shall exist between the Supplier and the Customer until a Customer's Order for goods has been accepted by the Supplier (such acceptance of Customer's orders may be made and communicated by the Supplier in writing or by overt act of acceptance). The Supplier may accept or refuse any Order for goods in its absolute discretion and may make its acceptance of an Order conditional upon it receiving a satisfactory credit assessment of the Customer.
- c. The Supplier may vary these terms and conditions by notice in writing to the Customer (which notice may be given via the Supplier's Website). If the Customer is a Consumer, then the Customer may consider the variation and, if not acceptable, may elect not to proceed with the purchase of the goods ordered before the date of the variation but which are intended to be subject to the variation. If the Customer is not a Consumer, the Customer agrees that goods delivered and/or ordered after the date of the notice of the variation will be subject to the variation and acceptance of the goods or the placing of the Order shall be deemed to be an acceptance of such varied terms and conditions.
- d. Should there be any variation to any of the information supplied by the Customer to the Supplier or in the structure or nature of the Customer's business (such as a conversion to or from a Company or Trust) the Customer shall forthwith notify the Supplier in writing within 28 days of the variation occurring.
- e. These terms and conditions and all obligations hereunder shall be binding on the Customer's personal representatives, successors and permitted assigns and shall be for the benefit of the Supplier's successors and assigns.

4. PRICING AND PAYMENT

- a. Notwithstanding any prior acknowledgment by the Supplier of the price of goods, the prices specified for goods may at the Supplier's option be subject to alteration to reflect the Supplier's prices and charges in effect at the time of delivery. In respect of castings, fabricated metal and custom orders, the Customer acknowledges that weights quoted by the Supplier at the time of order are approximate and that Supplier prices quoted for these items are therefore estimates only. The relevant price per gram will be locked in at the time a Customer order is dispatched. The Customer will be charged for and agrees to pay for the value of the actual weight dispatched by the Supplier in respect of all casting and fabricated metal orders at the locked in price per gram.
- b. Any variations in the invoice or contract price as a consequence of currency fluctuations, taxes, delivery and freight charges, customs duty or other imposts shall be to the Customer's account.
- c. If the Customer is a Consumer, then the Customer may consider the variation referred to in clause 4(b) and, if not acceptable, may elect not to proceed with the purchase of the goods ordered before the date of the variation but which are intended to be subject to the variation.
- d. The Supplier will be entitled to set off against any money owing to the Customer amounts owed to the Supplier by the Customer on any account whatsoever. However, the Customer shall not set off any amounts allegedly owing by the Supplier to it against any amount due by it to the Supplier.
- e. Unless otherwise agreed to by the Supplier, the only accepted means of paying accounts will be by cash, bank cheque, COD or electronic funds transfer, all without any deduction.
- f. Abnormal payments: where payments are made that are not made in accordance with clause 4(e) the Customer will also pay the Supplier an administration fee of 2% of the amount so paid. That fee is agreed to be the liquidated cost of processing that abnormal payment. That fee is payable at the same time as the account to which it relates is due.
- g. Payments received by the Supplier shall be applied first in payment of interest and any costs of and incidental to debt recovery and any amounts payable pursuant to clauses 4(f) and 5(d) and then in reduction of principal.
- h. Payments received without remittance advice will be applied first to the latest balance owing by the Customer.

- i. As a credit provider, we reserve our right to register a Payment Default with our Credit Reporting Body if a debt is equal to or more than \$150 and is more than 60-days overdue, and written notices have been sent to the customers last known address.

5. ACCOUNT TERMS

- a. The Customer shall pay an establishment fee outlined in the Terms of Credit upon approval of credit.
- b. Unless otherwise agreed in writing by the Supplier, the Customer shall pay for all goods delivered within 30 days from date of invoice.
- c. Credit extended to the Customer for all goods sold will be made in accordance with the Terms of Credit as agreed by the Supplier at the time the Customer's account was established or as subsequently altered by the Supplier. In all other respects these terms and conditions will apply.
- d. If the Customer does not pay the Supplier by the due date, the Customer shall pay interest on monies due, charged at the rate of 1.25% per month from the due date for payment until the actual date of payment. If the Customer has an account with the Supplier, the Supplier may debit the Customer's account monthly or at such other times it chooses for such interest.
- e. The Customer shall pay any legal costs (on a full indemnity basis), stamp duties, any bank charges or merchant fees or like charges levied on the Supplier by any banker or other credit provider whose banking or credit card facilities are utilised by the Customer for paying the Supplier any amounts on any account and any other expenses payable of and incidental to the performance or enforcement of or any litigation on these terms and conditions or any credit application or any security documents signed by the Customer or any guarantor together with any other collection costs and dishonoured cheque fees. For the avoidance of any doubt, the Customer is liable to pay the costs under this clause 5(d) whether such costs have actually been incurred by the Supplier or are to be incurred and the liability for such costs has crystallised, including without limitation, the costs of any commission or other fee payable to a debt recovery agent upon recovery of any payment(s) from the Customer.
- f. Despite any other clause in these terms and conditions, the Supplier may withdraw the Customer's credit facilities at any time without notice or at its sole, unfettered discretion for any reason whatsoever, by way of written notice to the Customer.
- g. The Customer is liable for all purchases made under his, hers or its account number and/or account name. It is not the responsibility of the Supplier to confirm authority for the purposes of supplying the goods to the Customer, its agent(s) or those who the Supplier deems to be its agents. It is the sole responsibility of the Customer to ensure there is no unauthorised use of their account number or name.
- h. The Supplier shall in its absolute discretion charge an annual account keeping fee ("Account Fee"), the Account Fee to be 1.0% of the credit limit or such lesser amount as determined by the Supplier. The Supplier may debit the Account Fee to the Customer's account annually in advance or at such other times it chooses for such Account Fee.

6. PERSONAL PROPERTY SECURITIES ACT

- a. The Customer agrees that these terms and conditions create a PMSI in the goods (and their proceeds) supplied presently and in the future by the Supplier to the Customer.
- b. Customer agrees to do all things necessary and execute all documents reasonably required to register the PMSI granted by the Customer under these terms and conditions and to ensure that the Supplier acquires a perfected security interest in the goods under the PPSA.

- c. The Customer will, upon demand, pay all of the Supplier's expenses and legal costs (on a solicitor/agent/client basis) in relation to or in connection with the registration of the Supplier's security interest and all other costs associated with protection and enforcement of the Supplier's security interest created by these terms and conditions or by undertaking an audit under the provisions of the PPSA, or the repossession of the goods the subject of these terms and conditions or the exercise, enforcement or preservation of any right or interest under these terms and conditions or any contract that the Supplier has with the Customer.
- d. This PMSI does not lose its priority as a result of the renewal, refinancing, consolidation or restructure of the subject matter of these terms and conditions and any purchase money obligations.
- e. Until ownership of the goods passes to the Customer, the Customer waives its rights under the following provisions of the PPSA, to the extent that it is permitted by law to:
 - i. Receive a notice of intention of removal of an accession (s 95);
 - ii. Receive a notice that the Supplier has determined to enforce its security interest in accordance with land law (s 118);
 - iii. Receive a notice of enforcement action against liquid assets (s 120 and s 121);
 - iv. Receive a notice of disposal of goods by the Supplier purchasing the goods (s 129);
 - v. Receive a notice to dispose of the goods (s 130);
 - vi. Receive a statement of account following disposal of the goods (s 132(2));
 - vii. Receive a statement of account if no disposal of the goods, six months (s 152(4));
 - viii. Receive notice of any proposal by the Supplier to retain the goods (s 135(2));
 - ix. Object to any proposal by the Supplier to either retain and dispose of the goods (s 137(3));
 - x. Redeem the goods (s 142);
 - xi. Reinstate the security agreement (s 143); and
 - xii. Receive a notice of any verification statement (s 157(1) and s 157(3)).
- f. To the extent permitted by the PPSA, these terms and conditions exclude any provisions of the PPSA which may be excluded in the Supplier's discretion and which would otherwise confer rights on the Customer.
- g. The Customer further agrees that where the Supplier has rights in addition to those under Part 4 of the PPSA, those rights shall continue to apply.
- h. The Customer's right to possession of goods still owned by the Supplier under these terms and conditions shall cease if:
 - i. The Customer being an individual, commits an act of bankruptcy;
 - ii. The Customer being a company, circumstances arise where a receiver, manager, administrator or controller becomes entitled to take possession of any of its assets, any proceedings are initiated to wind it up, or enters into a Deed of Company Arrangement.
 - iii. The Customer ceases or threatens to cease conducting business in the normal manner or applies for de-registration or receives a de-registration notice;
 - iv. Any cheque the Customer provides to the Supplier or any Related Bodies Corporate is dishonoured for payment;
 - v. The Customer fails to comply with any demand for payment issued by the Supplier or any Related Bodies Corporate; or
 - vi. The Customer breaches any of the terms and conditions contained herein and/or in any other agreement with the Supplier or any Related Bodies Corporate.

- i. The Customer expressly and irrevocably agrees that the Supplier is entitled to enter any premises where the goods supplied by the Supplier are located to repossess, remove and sell such goods. The Customer (its successors and assigns, including any external manager or administrator) shall not object to the Supplier, or its agents, entering any premises for the purpose of this clause and agrees to indemnify and keep the Supplier indemnified in respect of any claims, actions and costs that may arise against the Supplier in relation to the removal, repossession and sale of the goods pursuant to these terms and conditions including any claims brought by third parties.
- j. The Customer agrees that repossession and retention of the goods pursuant to the PPSA will only satisfy so much of the monies which may become payable to the Supplier by the Customer, as is equivalent to the Supplier's estimation of the market value of the goods as it is at the date of repossession and the repossession and retention will immediately extinguish any rights for interest the Supplier has on the value of the goods recovered.
- k. Until ownership of the goods passes, the Customer must not give the Supplier a written demand or allow any other person to give the Supplier a written demand requiring the Supplier to register a financing change statement under the PPSA or enter into or allow any other person to enter into the personal property securities register a financing change statement under the PPSA.
- l. The Customer agrees not to change the Customer name or undertake any changes to any documents that the Supplier has registered, requires to be registered or are capable of being registered without the prior written consent of the Supplier. For avoidance of doubt, these terms regarding the PPSA apply even where the customer is a Consumer.

7. DEFAULT

If:

- a. The Supplier has any reasonable grounds to believe that the Customer may not be able to make due and punctual payment to the Supplier or there is any default or failure by the Customer in making due and punctual payment to the Supplier of any moneys owing by the Customer; or
- b. An administrator, liquidator or provisional liquidator is appointed in respect of the Customer; or
- c. A receiver and manager, administrator or controller is appointed in respect of any assets or group of assets of the Customer; or
- d. The Customer goes into bankruptcy or is wound up; or
- e. The Customer becomes, admits in writing that it is, or declared by a court to be unable to pay its debts as and when they fall due; or
- f. There is a breach by the Customer of any of these terms and conditions,

Then all monies payable by the Customer to the Supplier shall at the Supplier's election become immediately due and payable notwithstanding the due date for payment shall not have expired; and the Supplier may without prejudice to any other rights it may have, do any or all of the following:

- i. Place on stop any credit facilities which may have been extended to the Customer;
- ii. Withdraw any credit facilities which may have been extended to the Customer;
- iii. Withhold any further delivery of goods;
- iv. In respect of goods already delivered, enter onto the Customer's premises to recover and resell the goods for its own benefit;
- v. Recover from the Customer the cost of materials and goods acquired for the purpose of future deliveries; or
- vi. Exercise such rights as are afforded to the Supplier under the PPSA.

8. DELIVERY

- a. Goods will be delivered or deemed to be delivered, when they are delivered to the delivery place nominated by the Customer. If no such address is nominated, then delivery will be deemed to occur at the time when the goods are ready for collection at the Supplier's premises.

- b. The Customer shall pay to the Supplier packing, crating and delivery charges in accordance with the Supplier's current rates as at the date of dispatch. If there is no current rate, then a reasonable delivery charge shall be paid by the Customer.
- c. The Supplier reserves the right to make a reasonable charge for storage if delivery instructions are not provided by the Customer within 14 days of a request by the Supplier for such information.
- d. The Customer authorises the Supplier to deliver products to the place nominated by the Customer and to leave the products at such place whether or not any person is present to accept delivery. The Supplier shall not be liable on any basis whatsoever for loss suffered by the Customer after delivery to the nominated delivery place.
- e. The Supplier shall not be obliged to obtain a signed receipt or other acknowledgment from any person at the nominated place for delivery but if a signed receipt or other acknowledgment is obtained from someone believed by the Supplier to be authorised by the Customer to sign or otherwise take delivery, then such signed receipt or other acknowledgement shall be conclusive evidence of the Customer's acceptance of the goods delivered.
- f. Any times quoted for delivery are estimates only and the Supplier shall not be liable to the Customer for any failure to deliver or for delay in delivery of goods occasioned by strike, lockout or other industrial dispute, shortage of stock, shortage of labour, lack of skilled labour, delays in transit, fire, flood, hostility, civil commotion or any other cause whatsoever whether or not beyond the control of the Supplier.
- g. The Customer shall not be relieved of any obligation to accept or pay for goods by reason of any delay in delivery.
- h. The Supplier reserves the right to deliver goods by instalments and each instalment shall be deemed to be sold under a separate contract. Failure to deliver any instalment, or deliver any instalment on time shall not entitle the Customer to repudiate the contract in whole or in part.

9. PROPERTY AND RISK

- a. The goods shall be at the sole risk of the Customer as soon as they are dispatched from the Supplier's premises.
- b. Property in and title to the goods will not pass to the Customer until those goods and all other amounts owed to the Supplier by the Customer have been paid for in full and until then:
 - i. The Customer will hold the goods as fiduciary and bailee for the Supplier;
 - ii. The goods must be stored separately and in a manner enabling them to be identified as goods of the Supplier and cross-referenced to particular invoices and the Customer acknowledges that if it should process or mix the goods with other products or items such that the goods are no longer separately identifiable then the Customer and the Supplier will be owners in common of the new product;
 - iii. The Customer may sell the goods in the ordinary course of its business as bailee for the Supplier and will hold the proceeds of sale in a separate account on trust for the Supplier and account to the Supplier for those proceeds; and
 - iv. The Supplier may require the Customer to return the goods to it on demand and may enter upon the premises of the Customer to inspect or repossess the goods.
- c. The Customer expressly and irrevocably agrees that the Supplier is entitled to enter any premises where the goods supplied by the Supplier are located to repossess, remove and sell such goods. The Customer, its successors and assigns (including any external manager or administrator) shall not object to the Supplier, or its agents, entering any premises for the purpose of this clause and agrees to indemnify and keep the Supplier indemnified in respect of any claims, actions and costs that may arise against the Supplier in relation to the removal, repossession and sale of the goods pursuant to these terms and conditions including any claims brought by third parties.

- d. The Customer shall insure the goods against theft or any damage until such goods have been paid for or until they are sold by the Customer whichever occurs first and the Supplier will be entitled to call for details of the insurance policy. If the Customer does not insure the goods or fails to supply details of its insurance policy, the Customer will reimburse the Supplier for the cost of any insurance which the Supplier may reasonably arrange in respect of the goods supplied to the Customer.

10. RETURN OF GOODS AND CLAIMS UPON SUPPLIER (NON CONSUMERS)

If the Customer is not a Consumer:

- a. Unless agreed in writing by the Supplier, the Supplier will not accept the return of goods. Goods accepted for return by the Supplier may attract a charge to recover restocking and repackaging charges. The amount of this charge will be determined by the Supplier, and deducted from the amount of credit allowed to Customer;
- b. The proof of purchase from the Customer must accompany all goods returned to the Supplier;
- c. All claims for the Supplier's failure to comply with the Customer's Order whether due to shortfall, defect, incorrect delivery or otherwise must be made by giving written notice to the Supplier within fourteen (14) days from the date of invoice. If the Customer fails to provide such notice then the Customer shall be deemed to have accepted the goods;
- d. These conditions shall not exclude, or limit the application of any provision of any statute including any implied condition or warranty the exclusion of which would contravene any statute or cause any part of this clause to be void. To the extent permitted by law all conditions, warranties and undertakings are expressly excluded;
- e. The Supplier's liability for breach of a non-excludable condition or warranty is limited at the Supplier's option, to any one of the following:
- The replacement of the goods or the supply of equivalent goods;
 - The repair of the goods; and
 - The payment of the cost of providing replacement goods or of acquiring equivalent goods; or
 - The payment of the cost of having the goods repaired; and
- f. The Supplier shall not be liable for any indirect loss or damages whatsoever, including consequential loss, loss of profits, loss of opportunity or loss of use.

11. DIAMONDS AND OTHER GEMSTONES

The Customer acknowledges and agrees that

- a. Diamonds and other gemstones ordered from the Supplier are purchased by the Supplier from third party vendors specifically on a job by job basis and are not able to be returned or exchanged.
- b. An instruction to the Supplier to order diamonds and other gemstones is an irrevocable purchase order.
- c. The Supplier may require that the Customer pay the Supplier for diamonds and other gemstones in full and cleared funds at the time the Customer makes the relevant purchase order with the Supplier.

12. FITNESS FOR PURPOSE

To the maximum extent permitted by law, the Customer agrees that it does not rely on the skill or judgement of the Supplier in relation to the suitability of any goods for a particular purpose. Any advice, recommendation, information or assistance provided by the Supplier is provided without any liability by the Supplier whatsoever.

13. GST

- a. Any expression used in this clause and which is defined in the "A New Tax System, (Goods and Services Tax) Act 1999" has the same meaning in this clause 12.
- b. With the exception of any amount payable under this clause, unless otherwise expressly stated all amounts stated to be payable by the Customer under these terms and conditions are exclusive of GST.

- c. If GST is imposed on any supply made under or in accordance with these terms and conditions, the recipient of the taxable supply must pay to the Supplier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with this document, subject to the provision of a tax invoice by the Supplier to the recipient.

14. TRUST AND TRUSTEES

Where the Customer is a trustee:

- a. The Customer agrees to produce a stamped copy of the trust deed (with all amendments) if and when requested by the Supplier; and
- b. The Customer warrants that it has full power and authority to enter into these terms and conditions on behalf of the trust and that it (and the trust and all the trust's real and personal property) shall be bound by these terms and conditions and that it enters into these terms and conditions and the related credit terms both personally and as trustee, irrespective of whether or not it discloses to the Supplier that it is a trustee at the time of entering into this or any other credit agreement with the Supplier.

15. CAD CAM AND FINISHING

- a. Time: All delivery time estimates are guides only. While the Supplier makes best efforts to achieve those estimates, the Supplier accepts no responsibility if they are not met. Estimated times for CAD drawings do not include time for amendments to files or delays caused by incomplete Customer instruction.
- b. Customer amendments to CAD drawings produced by the Supplier: Amendments requested by the Customer to:
- Customer supplied CAD drawings; or
 - CAD drawings after initial supply by the Supplier to the Customer brief, will incur additional charges.
- c. Estimated metal weights: If the Customer requires a CAD drawing to be prepared by the Supplier to a target weight in a relevant metal, the Customer must specify that target weight at the time of instruction. If a target weight is not specified by the Customer, the Supplier will produce the CAD drawing with a target weight that the Supplier determines in its absolute discretion achieves the design intent and in such circumstances, the Customer must accept the cast weight of the item produced.
- d. Gemstones: All Customer gemstones provided to the Supplier must be accompanied by a Customer estimate of value in Australian dollars at the time of delivery to the Supplier. The Supplier takes all due care to protect from damage Customer supplied gemstones. The Supplier accepts no responsibility for damage to gemstones supplied by the Customer to the Supplier for setting or otherwise. For a small fee, the Supplier can arrange for insurance on a relevant gemstone.
- e. CAD Charges: CAD files prepared by the Supplier but not approved by the Customer within 5 business days of provision by the Supplier will be invoiced to the Customer.
- f. CAD files: A Customer SLC manufacturing file can be supplied by the Supplier to the Customer on request at no charge, all original construction files in RLF, 3DM, STL, OBJ, JCD, 3DC can be released at a charge of double the design fee.

16. INTELLECTUAL PROPERTY RIGHTS

- a. The Customer warrants that it owns all Intellectual Property Rights pertaining to its Order for goods or has a licence to authorise the Supplier to reproduce or use all copyright works or other materials the subject of Intellectual Property Rights supplied by the Customer to the Supplier for the purposes of the Order. The Customer indemnifies and agrees to keep indemnified the Supplier against all Losses incurred by the Supplier in relation to or in any way directly or indirectly connected with any breach of any other Intellectual Property Rights in relation to any material supplied by the Customer.
- b. Unless specifically agreed in writing between the Supplier and the Customer, all Intellectual Property Rights in any works created by the Supplier on behalf of the Customer vest in and remain the property of the Customer.

c. Subject to payment of all invoices due in respect of the goods, the Supplier grants to the Customer a perpetual, non-exclusive licence to use the works created or produced by the Supplier in connection with the provision of goods under these terms for the purposes contemplated by the Order.

17. SUB-CONTRACTING

The Supplier reserves the right to sub-contract the manufacture and/ or supply of the goods or any part thereof to a third party.

18. FORCE MAJEURE

a. Subject to clause 17(b), where a party is unable, wholly or in part, to carry out any obligation under this agreement by reason of an act of God, strike, lockout or other interference with work, war declared or undeclared, blockade, disturbance, lightning, fire, earthquake, storm, flood, explosion, governmental or quasi-governmental restraint, expropriation prohibition intervention direct or embargo, unavailability or delay in availability of equipment or transport, inability or delay in obtaining governmental or quasi-governmental approvals consents permits licenses authorities or allocations, and any other cause whether of the kind specifically enumerated above or otherwise which is not reasonably within the control of the party affected (**Force Majeure**), and that party:

- i. gives the other party prompt notice of that Force Majeure with reasonably full particulars thereof, and, insofar as known, the probable extent to which it will be unable to perform or be delayed in performing that obligation; and
- ii. uses all possible diligence to remove that Force Majeure as quickly as possible,

that obligation is suspended so far as it is affected by Force Majeure during the continuance of the event.

b. Any:

- i. obligation to pay money is never excused by Force Majeure; and
- ii. requirement that any Force Majeure must be removed with all possible due diligence does not require the settlement of strikes, lockouts or other labour disputes, or claims or demands by any government on terms contrary to the wishes of the party affected.

19. CERTIFICATE

A statement in writing signed by the Supplier's credit manager or by other duly authorised officers ("certificate") stating all or any of the following matters, facts or things:

- a. The amount due at any date for all goods provided by the Supplier to the Customer;
- b. The amount due at any date for interest on the monies due;
- c. The amount due at any time for legal costs actually incurred by the Supplier, or to be incurred on accordance with clause 5(d), including without limitation, the costs of and incidental to any litigation, stamp duties and other expenses payable on these terms and conditions, or any credit application, guarantee or other security documents signed by the Customer together with any collection costs or dishonoured cheque fees;
- d. The date of default in performing or observing any terms and conditions, covenant or agreement to be performed or observed by the Customer;
- e. Whether such default has continued between specified dates; and
- f. Anything else relevant to the establishment of any right or remedy of the Supplier, or of the liability of the Customer, shall be conclusive evidence observed by the Customer shall be conclusive evidence of such matter(s), fact(s) or thing(s) stated in the certificate.

20. NOTICE

a. Notices to be given by the Customer to the Supplier may be delivered personally or sent to the Supplier's Address, as stated in clause 1(k) and, unless the contrary is proved, notice shall be taken as delivered when received by the Supplier at that address.

b. Notices to be given to the Customer by the Supplier may be delivered personally or sent to the Customer's last known address and, unless the contrary is proved, shall be taken as delivered on the second business day following posting. Invoices and statements are deemed received by the Customer on the second business day after posting by ordinary prepaid post.

21. SEVERANCE

In the event that the whole or any part or parts of any provisions in this agreement should be held to be void or unenforceable in whole or in part such provision or part thereof shall to that extent be severed from these terms and conditions but the validity and enforceability of the remainder of these terms and conditions shall not be affected.

22. GOVERNING LAW

a. Unless varied by notice in writing by the Supplier these terms and conditions shall be governed by and construed in accordance with the laws of the State or Territory of the place of delivery of the goods. The parties submit to the exclusive jurisdiction of the courts in the capital city in that State or Territory (and, if there is more than one such court in the capital city, at such court as the Supplier in its absolute discretion selects).

b. The parties agree that proceedings may be commenced in any such Court of such State or Territory and consent to that Court having jurisdiction by virtue of clause 21(a) notwithstanding that that Court would not have such jurisdiction without this consent.