

1. Definitions

- 1.1 “GPFB” means Glass Pool Fencing Brisbane Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Glass Pool Fencing Brisbane Pty Ltd.
- 1.2 “Client” means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Client is a reference to each Client jointly and severally.
- 1.3 “Goods” means all Goods or Services supplied by GPFB to the Client at the Client’s request from time to time (where the context so permits the terms ‘Goods’ or ‘Services’ shall be interchangeable for the other).
- 1.4 “Price” means the Price payable (plus any GST where applicable) for the Goods as agreed between GPFB and the Client in accordance with clause 4 below.

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for the Services, pays the deposit and/or accepts delivery of the Goods.
- 2.2 These terms and conditions may only be amended with GPFB’s consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and GPFB.
- 2.3 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 14 of the Electronic Transactions (Queensland) Act 2001 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Change in Control

- 3.1 The Client shall give GPFB not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client’s details (including but not limited to, changes in the Client’s name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by GPFB as a result of the Client’s failure to comply with this clause.

4. Price and Payment

- 4.1 At GPFB’s sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by GPFB to the Client; or
 - (b) GPFB’s quoted Price (subject to clause 4.2) which shall be binding upon GPFB provided that the Client shall accept GPFB’s quotation in writing within thirty (30) days, unless withdrawn in writing. Unless stated in the quotation, no allowance has been made for:
 - (i) any obstructions such as rock, concrete, tree roots, broken posts or any other mater which may be encountered during the provision of the Services. An additional charge based on GPFB’s ruling hourly rates for labour, plus the costs of hire of any necessary equipment will be made to cover the costs of drilling or removing of such obstructions;
 - (ii) cement and gravel where the quotation is for “Goods only”;
 - (iii) the supply of electric power.
- 4.2 The Price is based on a cleared and surveyed alignment of the site for the proposed Services (unless included in the quotation any costs incurred in respect of clearing and surveying and alignment will be in addition to the Price).
- 4.3 GPFB reserves the right to change the Price:
 - (a) if a variation to the Goods which are to be supplied is requested; or
 - (b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested or required due to council’s conditions; or
 - (c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, inclement weather, limitations to accessing the site, obscured site defects (unseen obstructions), safety considerations, prerequisite work by any third party not being completed, the unavailability of required site utilities, hard rock barriers below the surface or iron reinforcing rods in concrete, etc.) which are only discovered on commencement of the Services; or
 - (d) in the event of increases to GPFB in the cost of labour or materials, which are beyond GPFB’s control.
- 4.4 Acceptance of any variation, alteration or modification of the Services by the Client (or its legally authorised representative) must be confirmed by email and shall be acknowledged by GPFB before any work commences on the change required.
- 4.5 At GPFB’s sole discretion, a non-refundable deposit may be required.
- 4.6 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by GPFB, which may be:
 - (a) prior to delivery of the Goods/commencement of the Services;
 - (b) by way of progress payments in accordance with GPFB’s specified progress payment schedule. Such progress payment claims may include the reasonable value of authorised variations and the value of any Goods delivered to the site but not yet installed;
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by GPFB.
- 4.7 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, or by any other method as agreed to between the Client and GPFB.
- 4.8 Unless otherwise stated the Price includes GST. However, the Client must pay (in addition to the Price) any other taxes and duties that may be applicable, except where they are expressly included in the Price.

5. Delivery

- 5.1 Delivery (“**Delivery**”) of the Goods is taken to occur at the time that GPFB (or GPFB’s nominated carrier) delivers the Goods to the Client’s nominated address even if the Client or the Client’s representative is not present at the address.
- 5.2 GPFB may provide the Goods by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 5.3 Subject to clause 5.4, it is GPFB’s responsibility to ensure that the Services start as soon as it is reasonably possible.

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- 5.4 The Services commencement date will be put back and/or the completion date extended by whatever time is reasonable in the event that GPFB claims an extension of time (by giving the Client written notice) where completion is delayed by an event beyond GPFB's control, including but not limited to, in the event of inclement weather and/or any event under clause 19.6, or any failure by the Client to:
- make a selection; or
 - have the site ready for the Services; or
 - notify GPFB that the site is ready.
- 5.5 Any time or date given by GPFB to the Client is an estimate only. GPFB shall not be liable for any loss or damage whatsoever due to failure by GPFB to provide the Goods (or any part of them) promptly or at all, where due to circumstances beyond the reasonable control of GPFB. However both parties agree that they shall make every endeavour to enable the Goods to be delivered at the time and place as was arranged between both parties. In the event that GPFB is unable to supply the Goods as agreed solely due to any action or inaction of the Client then GPFB shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 5.6 GPFB shall not be responsible for digging land out under fence lines nor removal of soil from the site.
- 5.7 The Client shall ensure that:
- it (or it's legally authorised representative) is on site to supervise the marking out of the fence line, placement of boundary pegs and during the installation of the fence. If the Client fails to comply with this clause then GPFB accepts no responsibility for installation decisions (including any resulting incorrect location of the fence and/or gates) that need to be made by GPFB in the Client's absence;
 - any existing fence (including existing footings), trees and tree branches, vines, shrubs garden beds, pots, watering systems, etc. are removed or cleared to allow GPFB clear access along the proposed fence line prior to commencement of the Services.
- 5.8 The Client shall provide GPFB with temporary lighting, toilet, eating and first aid facilities (if required), and a suitable free power source and adequate water supply to enable them to carry out the Services.
- 5.9 Industry standard maximum tolerance is 1mm curve per 200m length of glass, or part thereof. For example, a 1400mm panel of glass has a +/-7mm tolerance. Any glass that is out of tolerance will be replaced and installed free of charge.

6. Risk

- 6.1 All risk for the Goods shall immediately pass to the Client on delivery; and
- the Client must insure the Goods on or before delivery.
 - delivery of the Goods shall be deemed to have taken place immediately at the time that the Goods are delivered by GPFB or GPFB's nominated carrier to the Client's nominated delivery site (even if the Client is not present at the site).
- 6.2 The Client acknowledges that:
- Goods supplied may:
 - exhibit variations in shade, colour, surface or finish, and may fade or change colour over time; and
 - mark or stain if exposed to certain substances; and
 - be damaged or disfigured by impact or scratching.
 - the standard gap between the bottom of the fence and the ground after installation can vary between fifteen millimetres (15mm) and ninety-five millimetres (95mm), (depending on how level the fence line is), unless special arrangements to the contrary have been made and previously agreed upon by GPFB and the Client;
 - gap spacing for glass fences by law can be no larger than 100mm. For frameless fences GPFB shall endeavour to have consistent spacing between panels. Where there are some variations in the gap spacing between panels, this shall not be seen nor accepted as a defect as some variation to the gap spacing may be required to accommodate site-specific conditions whilst maintaining the legal requirements;
 - in respect of fencing that is fixed to timber decking, GPFB is not responsible for the alignment of the fence or gates where the timber decking framework moves.
 - where GPFB gives advice or recommendations to the Client, or the Client's agent, regarding the suitability of the site for the installation of the Goods, and such advice or recommendations are not acted upon, then GPFB shall require the Client or their agent to authorise commencement of the Services in writing. GPFB shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.
- 6.3 The Client shall ensure that GPFB has clear and free access to the site at all times to enable them to undertake the Services, and that such access is suitable to accept the weight of laden trucks, front end loaders or other earth moving equipment as may be deemed necessary by GPFB. GPFB shall not be liable for any loss or damage to the site (including, without limitation, damage to pipes, cables, shrubs, pathways, driveways and concreted or paved or grassed areas, or anything else on or near the site) during delivery, installation or any other time, unless due to the negligence of GPFB.

7. Accuracy of Client's Plans and Specifications

- 7.1 GPFB shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client. The Client acknowledges and agrees that in the event that any of this information provided by the Client is inaccurate, GPFB accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.
- 7.2 If the giving of a quotation for the provision of Goods involves GPFB estimating measurements and quantities, it shall be the responsibility of the Client to verify the accuracy of thereof before the Client accepts such quotation. Should the Client require any changes to GPFB's estimated measurements and quantities, the Client shall request such changes in writing before acceptance of the quotation.

8. Client's Responsibilities

- 8.1 It shall be the Client's responsibility to ensure that, prior to commencement of the Services by GPFB:
- and unless otherwise agreed between both parties, any furniture, furnishings or personal materials are removed from the vicinity of the Services and agrees that GPFB shall not be liable for any damage caused to those items through the Client's failure to comply with this clause;
 - GPFB is advised of the precise location of all known underground services, and asbestos and/or or hazardous materials (and that these are clearly marked) on site. The underground mains and services the Client must identify include, but are not limited to, electrical

services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site. Whilst GPFB will take all care to avoid damage to any underground services the Client agrees to indemnify GPFB in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified by the Client.

- 8.2 The Client shall be responsible for:
- (a) protecting all trees and shrubs. GPFB accepts no responsibility for damage to the same;
 - (b) supervising the erection to begin and be completed by GPFB in the correct position as GPFB will not be liable for the incorrect location of the Goods;
 - (c) maintaining the pool fence as a compliant barrier and ensuring that the gate hinges and latch continue to be self-closing and self-latching by pool fence regulations;
 - (d) having, at the Client's own cost, a licensed electrical contractor electrically earth the pool fence in accordance with Wiring Rules Standard AS/NZ 3000, if required. In general, pool fences and support structures situated closer than 1250mm to swimming pools may require connection of an equipotential bond (joining together metalwork that is or may be earthed so that it is at the same potential or voltage everywhere) which joins together all the conductive parts in and near the pool, the steel reinforcing in the shell and handrails which connects them to an earthing point.
- 8.3 Although GPFB complies with relevant Australian Standards for pool safety fencing, the final responsibility for swimming pool safety (including ensuring all fencing and/or barriers, and any boundary fencing that forms part of the pool fence, are pool fence compliant) in accordance with any State or Local Government regulations is the pool owners, and GPFB accepts no responsibility for any accident in any pool where a safety fence has been erected.
- 8.4 Where GPFB attaches a post or panel to the Client's wall, it is the Client's responsibility to repair any pest control barrier.

9. Compliance with Laws

- 9.1 The Client and GPFB shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services, including any work health and safety laws relating to building/construction sites and any other relevant safety standards or legislation, particularly those in relation to asbestos and/or other hazardous materials (and the safe removal and disposal of the same). The Client agrees to indemnify GPFB against all claims arising from health issues related to exposure to asbestos at the site.
- 9.2 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Services.

10. Title

- 10.1 GPFB and the Client agree that ownership of the Goods shall not pass until:
- (a) the Client has paid GPFB all amounts owing to GPFB; and
 - (b) the Client has met all of its other obligations to GPFB.
- 10.2 Receipt by GPFB of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 10.3 It is further agreed that, until ownership of the Goods passes to the Client in accordance with clause 10.1:
- (a) the Client is only a bailee of the Goods and must return the Goods to GPFB on request.
 - (b) the Client holds the benefit of the Client's insurance of the Goods on trust for GPFB and must pay to GPFB the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
 - (c) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for GPFB and must pay or deliver the proceeds to GPFB on demand.
 - (d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of GPFB and must sell, dispose of or return the resulting product to GPFB as it so directs.
 - (e) the Client irrevocably authorises GPFB to enter any premises where GPFB believes the Goods are kept and recover possession of the Goods.
 - (f) GPFB may recover possession of any Goods in transit whether or not delivery has occurred.
 - (g) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of GPFB.
 - (h) GPFB may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

11. Personal Property Securities Act 2009 ("PPSA")

- 11.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 11.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and/or collateral (account) – being a monetary obligation of the Client to GPFB for Services – that have previously been supplied and that will be supplied in the future by GPFB to the Client.
- 11.3 The Client undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which GPFB 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 11.3(a)(ii);

- (b) indemnify, and upon demand reimburse, GPFB 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 GPFB;
 - (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 GPFB;
 - (e) immediately advise GPFB 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.
- 11.4 GPFB and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 11.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 11.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 11.7 Unless otherwise agreed to in writing by GPFB, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 11.8 The Client must unconditionally ratify any actions taken by GPFB under clauses 11.3 to 11.5.
- 11.9 Subject to any express provisions to the contrary (including those contained in this clause 11) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
- 12. Security and Charge**
- 12.1 In consideration of GPFB agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 12.2 The Client indemnifies GPFB from and against all GPFB's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising GPFB's rights under this clause.
- 12.3 The Client irrevocably appoints GPFB and each director of GPFB as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12 including, but not limited to, signing any document on the Client's behalf.
- 13. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)**
- 13.1 The Client must inspect the Services on completion (or (where the costs of installation are specifically excluded) Goods immediately upon unloading at the site, checking all received against the consignment docket) and must within seven (7) days (or forty-eight (48) hours for provision of Goods only) of such time notify GPFB in writing of any evident defect/damage, error or omission, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow GPFB to inspect/review the Goods/Services provided.
- 13.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions ("**Non-Excluded Guarantees**").
- 13.3 GPFB acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 13.4 GPFB acts as an agent only for the provision of the Goods. Any warranties (expressed or implied) relating to the quality and performance of the Goods are the responsibility of the manufacturer and/or importer.
- 13.5 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, GPFB makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. GPFB's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 13.6 If the Client is a consumer within the meaning of the CCA, GPFB's liability is limited to the extent permitted by section 64A of Schedule 2.
- 13.7 If GPFB is required to replace any Goods under this clause or the CCA, but is unable to do so, GPFB may refund any money the Client has paid for the Goods.
- 13.8 If the Client is not a consumer within the meaning of the CCA, GPFB's liability for any defect or damage in the Goods is:
 - (a) limited to the value of any express warranty or warranty card provided to the Client by GPFB, at GPFB's sole discretion;
 - (b) limited to any warranty to which GPFB is entitled, if GPFB did not manufacture the Goods;
 - (c) otherwise negated absolutely.
- 13.9 Subject to this clause 13, returns will only be accepted provided that:
 - (a) the Client has complied with the provisions of clause 13.1; and
 - (b) GPFB has agreed that the Goods are defective; and
 - (c) the Goods are returned within a reasonable time at the Client's cost (if that cost is not significant); and
 - (d) the Goods are returned in as close a condition to that in which they were delivered as is possible.
- 13.10 Notwithstanding clauses 13.1 to 13.9 but subject to the CCA, GPFB shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
 - (a) the Client failing to properly maintain the Goods;
 - (b) the Client using the Goods for any purpose other than that for which they were designed;
 - (c) the Client continuing to use the Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) interference with the Goods by the Client or any third party without GPFB's prior approval;
 - (e) the Client failing to follow any instructions or guidelines provided by GPFB;
 - (f) fair wear and tear, any accident, or act of God.
- 13.11 GPFB may, in its absolute discretion, accept non-defective Goods for return, in which case GPFB may require the Client to pay handling fees of up to twenty percent (20%) of the value of the returned Goods, plus any freight costs.
- 13.12 Notwithstanding anything contained in this clause if GPFB is required by a law to accept a return then GPFB will only accept a return on the conditions imposed by that law.

14. Intellectual Property

- 14.1 Where GPFB has designed, drawn, written plans or a schedule of works, or created any Goods for the Client, then the copyright in all such designs, drawings, documents, plans, schedules and Goods shall remain vested in GPFB, and shall only be used by the Client at GPFB's discretion.
- 14.2 The Client warrants that all designs, specifications or instructions given to GPFB will not cause GPFB to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify GPFB against any action taken by a third party against GPFB in respect of any such infringement.
- 14.3 The Client agrees that GPFB may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, plans or Goods which GPFB has created for the Client.

15. Default and Consequences of Default

- 15.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at GPFB's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 15.2 If the Client owes GPFB any money the Client shall indemnify GPFB from and against all costs and disbursements incurred by GPFB in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, GPFB's contract default fee, and bank dishonour fees).
- 15.3 Further to any other rights or remedies GPFB may have under this contract, if a Client has made payment to GPFB, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by GPFB under this clause 15 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this agreement.
- 15.4 Without prejudice to GPFB's other remedies at law GPFB shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to GPFB shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to GPFB becomes overdue, or in GPFB's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client has exceeded any applicable credit limit provided by GPFB;
 - (c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

16. Cancellation

- 16.1 Without prejudice to any other remedies GPFB may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions GPFB may suspend or terminate the supply of Goods to the Client. GPFB will not be liable to the Client for any loss or damage the Client suffers because GPFB has exercised its rights under this clause.
- 16.2 GPFB may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice GPFB shall repay to the Client any money paid by the Client for the Goods. GPFB shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 16.3 Subject to this clause 16, the Client may only cancel the delivery of the Goods by giving written notice to GPFB, and the Client shall be liable for all Goods/Services provided up to the date of cancellation and any and all loss incurred (whether direct or indirect) by GPFB as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 16.4 Should council permission of the Services be refused, this agreement shall be cancelled and the deposit shall be returned to the Client, less a reasonable amount for the performance of preparation of plans and any other work or attendances and negotiations with public utilities and authorities (and the fees charged by them) by GPFB.
- 16.5 Cancellation of orders for Goods made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

17. Privacy Act 1988

- 17.1 The Client agrees for GPFB to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by GPFB.
- 17.2 The Client agrees that GPFB may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Client; and/or
 - (b) to notify other credit providers of a default by the Client; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- 17.3 The Client consents to GPFB being given a consumer credit report to collect overdue payment on commercial credit.
- 17.4 The Client agrees that personal credit information provided may be used and retained by GPFB for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Goods; and/or
 - (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Goods.
- 17.5 GPFB may give information about the Client to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 17.6 The information given to the CRB may include:
- (a) personal information as outlined in 17.1 above;

- (b) name of the credit provider and that GPFB is a current credit provider to the Client;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and GPFB has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of GPFB, the Client has committed a serious credit infringement;
 - (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 17.7 The Client shall have the right to request (by e-mail) from GPFB:
- (a) a copy of the information about the Client retained by GPFB and the right to request that GPFB correct any incorrect information; and
 - (b) that GPFB does not disclose any personal information about the Client for the purpose of direct marketing.
- 17.8 GPFB will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.
- 17.9 The Client can make a privacy complaint by contacting GPFB via e-mail. GPFB will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

18. Building and Construction Industry Payments Act 2004

- 18.1 At GPFB's sole discretion, if there are any disputes or claims for unpaid Goods and Services, then the provisions of the Building and Construction Industry Payments Act 2004 may apply.
- 18.2 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Payments Act 2004 of Queensland, except to the extent permitted by the Act where applicable.

19. General

- 19.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 19.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland, the state in which GPFB has its principal place of business, and are subject to the jurisdiction of the Cleveland Court in that state.
- 19.3 Subject to clause 13, GPFB shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by GPFB of these terms and conditions (alternatively GPFB's liability shall be limited to damages which under no circumstances shall exceed the Price).
- 19.4 Neither party shall assign or sub-contract all or any part of their rights and obligations under this agreement without the written consent of the other party.
- 19.5 The Client agrees that GPFB may amend these terms and conditions by notifying the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for GPFB to provide Goods to the Client.
- 19.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 19.7 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.