
Integrity Glazing Innovations Pty Ltd – Terms & Conditions of Trade

1. Definitions

- 1.1 "IGI" means Integrity Glazing Innovations Pty Ltd ATF The trustee for The Ostwald Family Trust T/A Integrity Glazing Innovations Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Glazing Innovations Pty Ltd ATF The trustee for The Ostwald Family Trust T/A Integrity Glazing Innovations Pty Ltd.
- 1.2 "Customer" means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.
- 1.3 "Goods" means all Goods or Services supplied by IGI to the Customer at the Customer'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 for the Goods as agreed between IGI and the Customer in accordance with clause 5 below.

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods.
- 2.2 These terms and conditions may only be amended with IGI's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and IGI.
- 2.3 In the event that the Goods and/or Services provided by IGI are the subject of an insurance claim that the Customer has made, then the Customer shall be responsible for the payment of any monies payable to the insurance company and agrees to honour their obligation for payment for such transactions invoiced by IGI and shall ensure payment is made by the due date irrespective of whether the insurance claim is successful.

3. Electronic Transactions (Victoria) Act 2000

- 3.1 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions (Victoria) Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

4. Change in Control

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

5. Price and Payment

- 5.1 At IGI's sole discretion the Price shall be either:
 - (a) as indicated on any invoice provided by IGI to the Customer; or
 - (b) IGI's quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 5.2 IGI reserves the right to change the Price if a variation to IGI's quotation is requested. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation as a result of additional Services required due to unforeseen circumstances such as poor weather conditions, limitations to accessing the site, availability of machinery, safety considerations including the discovery of asbestos or synthetic mineral fibre, prerequisite work by any third party not being completed or as a result of any increase to IGI's in the cost of materials and labour) will be charged for on the basis of IGI's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 5.3 At IGI's sole discretion a non-refundable deposit of up to thirty percent (30%) of the GST exclusive Price may be required for Domestic Customers.
- 5.4 Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by IGI, which may be:
 - (a) for domestic Customers, on delivery of the Goods;
 - (b) by way of progress payments in accordance with IGI's payment schedule;
 - (c) for certain approved commercial Customers, thirty (30) days following the end of the month in which a statement is posted to the Customer's address or address for notices;
 - (d) the date specified on any invoice or other form as being the date for payment; or
 - (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by IGI.
- 5.5 Payment may be made by cheque (which must be cleared prior to commencement), electronic/on-line banking, credit card (plus a surcharge of up to two and a half percent (2.5%) of the Price), or by any other method as agreed to between the Customer and IGI.
- 5.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to IGI an amount equal to any GST IGI must pay for any supply by IGI under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

6. Delivery of Goods

- 6.1 Subject to clause 6.2 it is IGI's responsibility to ensure that the Services start as soon as it is reasonably possible.
- 6.2 The Services' commencement date will be put back and/or the completion date extended by whatever time is reasonable in the event that IGI claims an extension of time (by giving the Customer written notice) where completion is delayed by an event beyond IGI's control, including but not limited to any failure by the Customer to:
 - (a) make a selection; or
 - (b) have the site ready for the Services; or
 - (c) notify IGI that the site is ready.
- 6.3 At IGI's sole discretion the cost of delivery is included in the Price.

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- 6.4 The Customer must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods as arranged then IGI shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 6.5 IGI may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 6.6 Any time or date given by IGI to the Customer is an estimate only. The Customer must still accept delivery of the Goods even if late and IGI will not be liable for any loss or damage incurred by the Customer as a result of the delivery being late.

7. Risk

- 7.1 If IGI retains ownership of the Goods under clause 13 then:
- (a) where IGI is supplying Goods only, all risk for the Goods shall immediately pass to the Customer on delivery and the Customer must insure the Goods on or before delivery. Delivery of the Goods shall be deemed to have taken place immediately at the time that either;
- (i) the Customer or the Customer's nominated carrier takes possession of the Goods at IGI's address; or
- (ii) the Goods are delivered by IGI or IGI's nominated carrier to the Customer's nominated delivery address (even if the Customer is not present at the address).
- (b) where IGI is to both supply and install Goods then IGI shall maintain a contract works insurance policy until the Services are completed. Upon completion of the Services all risk for the Services shall immediately pass to the Customer.
- 7.2 If the Customer requests IGI to leave Goods outside IGI'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.
- 7.3 Holes, cut outs and cutting of the Goods may weaken the strength of the Goods and although it's unlikely, cracking may occur. IGI accepts no responsibility against cracks occurring after such Goods (that are subject to holes and cut outs) are installed unless a toughened glass is used.
- 7.4 The Customer acknowledges that Goods supplied may exhibit variations in shade, colour, texture, surface and finish, and may fade or change colour over time. IGI will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.
- 7.5 The Customer acknowledges that where an anodised surface finish has been selected, slight colour variation may occur between the main unit frame and any installation trims used due to the difference in aluminium alloys available and manufacturing standards and tolerances shall not be deemed to be a defect in the Goods.
- 7.6 The Customer acknowledges that Goods supplied may:
- (a) fade or change colour over time; and
- (b) expand, contract or distort as a result of exposure to heat, cold, weather; and
- (c) mark or stain if exposed to certain substances; and
- (d) be damaged or disfigured by impact or scratching.
- 7.7 Whilst every effort shall be taken by IGI to detect any structural defects prior to installation, the Customer shall indemnify IGI against any damage (including, but not limited to, aged or loose mortar internally or externally, loose sill tiles, or the relocation of plumbing or electrical wiring) resulting from the normal installation process, which costs of any remedial work shall be at the Customer's responsibility. If it is agreed that IGI shall organise or carry out the remedial works, then this shall be a variance as per clause 5.2.

8. Accuracy of Customer's Plans & Measurements

- 8.1 IGI shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Customer. The Customer acknowledges and agrees that in the event that any of this information provided by the Customer is inaccurate, IGI accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.
- 8.2 In the event the Customer gives information relating to measurements and quantities of Goods required in completing the Services, it is the Customer's responsibility to verify the accuracy of the measurements and quantities, before the Customer or IGI places an order based on these measurements and quantities. IGI accepts no responsibility for any loss, damages, or costs however resulting from the Customer's failure to comply with this clause.

9. Specifications

- 9.1 The Customer acknowledges that:
- (a) all descriptive specifications, illustrations, drawings, data, dimensions and weights stated in IGI's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the contract, unless expressly stated as such in writing by IGI;
- (b) while IGI may have provided information or figures to the Customer regarding the performance of the Goods, the Customer acknowledges that IGI has given these in good faith, and are estimates based on industry prescribed estimates.
- 9.2 To the extent permitted by law, no condition is made or to be implied, nor is any warranty given, or to be implied as to the life or wear of the Goods supplied or that they will be suitable for any particular purpose, or for use under specific conditions, notwithstanding that such purpose or conditions may be known or made known to IGI. Whilst IGI supplies products in accordance with specific manufacturing standards, it is the Customer's responsibility to ensure that the Goods comply with the requirements of the applicable Australian Safety Glazing Standards and codes in terms of particular glazing applications.

10. Customer's Responsibility

- 10.1 It is the intention of IGI and agreed by the Customer that it is the responsibility of the Customer to ensure that the Goods supplied by IGI are:
- (a) of the description, quality and character ordered; and
- (b) fit for the intended purpose required by the Customer.
- 10.2 It is the intention of IGI and agreed by the Customer that it is the responsibility of the Customer to provide and have erected scaffolding to enable the Services to be undertaken (where in IGI's opinion it is deemed necessary). It is also agreed that all scaffolding erected will

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comply with industry safety standards and that any person erecting the scaffolding shall be suitably qualified to ensure its safe and proper erection and where necessary shall hold a current certificate of competency and/or be fully licensed.

- 10.3 The Customer agrees to remove any furniture, furnishings or personal goods from the vicinity of the Services and agrees that IGI shall not be liable for any damage caused to those items through the Customer's failure to comply with this clause.

11. Compliance with Laws

- 11.1 The Customer and IGI 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.
- 11.2 The Customer shall obtain (at the expense of the Customer) all licenses and approvals that may be required for the Services.
- 11.3 The Customer agrees that the site will comply with any occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation.

12. Access

- 12.1 The Customer shall ensure that IGI has clear and free access to the work site at all times to enable them to undertake the Services. The Services shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of IGI.
- 12.2 It is the responsibility of the Customer to ensure that access is suitable to accept the weight of laden trucks. The Customer agrees to indemnify IGI against all costs incurred by IGI in recovering such vehicles in the event they become bogged or otherwise immovable.

13. Title

- 13.1 IGI and the Customer agree that ownership of the Goods shall not pass until:
- (a) the Customer has paid IGI all amounts owing to IGI; and
 - (b) the Customer has met all of its other obligations to IGI.
- 13.2 Receipt by IGI 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.
- 13.3 It is further agreed that:
- (a) until ownership of the Goods passes to the Customer in accordance with clause 13.1 that the Customer is only a bailee of the Goods and must return the Goods to IGI on request.
 - (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for IGI and must pay to IGI the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
 - (c) the Customer 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 Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for IGI and must pay or deliver the proceeds to IGI on demand.
 - (d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of IGI and must sell, dispose of or return the resulting product to IGI as it so directs.
 - (e) the Customer irrevocably authorises IGI to enter any premises where IGI believes the Goods are kept and recover possession of the Goods.
 - (f) IGI may recover possession of any Goods in transit whether or not delivery has occurred.
 - (g) the Customer 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 IGI.
 - (h) IGI may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

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

- 14.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 14.2 Upon assenting to these terms and conditions in writing the Customer 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 Customer to IGI for Services – that have previously been supplied and that will be supplied in the future by IGI to the Customer.
- 14.3 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 IGI 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 14.3(a)(i) or 14.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, IGI 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 IGI;
 - (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 IGI;
 - (e) immediately advise IGI 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.
- 14.4 IGI and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 14.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

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- 14.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 14.7 Unless otherwise agreed to in writing by IGI, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 14.8 The Customer must unconditionally ratify any actions taken by IGI under clauses 14.3 to 14.5.
- 14.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

15. Security and Charge

- 15.1 In consideration of IGI agreeing to supply the Goods, the Customer 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 Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 15.2 The Customer indemnifies IGI from and against all IGI's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising IGI's rights under this clause.
- 15.3 The Customer irrevocably appoints IGI and each director of IGI as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 15 including, but not limited to, signing any document on the Customer's behalf.

16. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 16.1 The Customer must inspect the Goods on immediately delivery and must within three (3) days of installation notify IGI in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow IGI to inspect the Goods.
- 16.2 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**).
- 16.3 IGI acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 16.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, IGI makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. IGI's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 16.5 If the Customer is a consumer within the meaning of the CCA, IGI's liability is limited to the extent permitted by section 64A of Schedule 2.
- 16.6 If IGI is required to replace the Goods under this clause or the CCA, but is unable to do so, IGI may refund any money the Customer has paid for the Goods.
- 16.7 If the Customer is not a consumer within the meaning of the CCA, IGI'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 Customer by IGI at IGI's sole discretion;
 - (b) limited to any warranty to which IGI is entitled, if IGI did not manufacture the Goods;
 - (c) otherwise negated absolutely.
- 16.8 Subject to this clause 16, returns will only be accepted provided that:
 - (a) the Customer has complied with the provisions of clause 16.1; and
 - (b) IGI has agreed that the Goods are defective; and
 - (c) the Goods are returned within a reasonable time at the Customer'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.
- 16.9 Notwithstanding clauses 16.1 to 16.8 but subject to the CCA, IGI 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 IGI;
 - (e) fair wear and tear, any accident, or act of God.
- 16.10 IGI may in its absolute discretion accept non-defective Goods for return in which case IGI may require the Customer to pay handling fees of up to twenty-five percent (25%) of the value of the returned Goods plus any freight costs.
- 16.11 Notwithstanding anything contained in this clause if IGI is required by a law to accept a return then IGI will only accept a return on the conditions imposed by that law.

17. Intellectual Property

- 17.1 Where IGI has designed, drawn or developed Goods for the Customer, then the copyright in any designs and drawings and documents shall remain the property of IGI.
- 17.2 The Customer agrees that IGI may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which IGI has created for the Customer.

18. Default and Consequences of Default

- 18.1 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 IGI's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 18.2 If the Customer owes IGI any money the Customer shall indemnify IGI from and against all costs and disbursements incurred by IGI in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, IGI's contract default fee, and bank dishonour fees).

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- 18.3 Further to any other rights or remedies IGI may have under this contract, if a Customer has made payment to IGI by credit card, 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 IGI under this clause 18 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this agreement.
- 18.4 Without prejudice to any other remedies IGI may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions IGI may suspend or terminate the supply of Goods to the Customer. IGI will not be liable to the Customer for any loss or damage the Customer suffers because IGI has exercised its rights under this clause.
- 18.5 Without prejudice to IGI's other remedies at law IGI shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to IGI shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to IGI becomes overdue, or in IGI's opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer 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
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

19. Cancellation

- 19.1 IGI 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 Customer. On giving such notice IGI shall repay to the Customer any money paid by the Customer for the Goods. IGI shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 19.2 In the event that the Customer cancels delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by IGI as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 19.3 Cancellation of orders for Goods made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

20. Privacy Act 1988

- 20.1 The Customer agrees for IGI 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 Customer in relation to credit provided by IGI.
- 20.2 The Customer agrees that IGI may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Customer; and/or
 - (b) to notify other credit providers of a default by the Customer; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two years.
- 20.3 The Customer consents to IGI being given a consumer credit report to collect overdue payment on commercial credit.
- 20.4 The Customer agrees that personal credit information provided may be used and retained by IGI 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 Customer'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 Customer; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Goods.
- 20.5 IGI may give information about the Customer 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 Customer including credit history.
- 20.6 The information given to the CRB may include:
- (a) personal information as outlined in 20.1 above;
 - (b) name of the credit provider and that IGI is a current credit provider to the Customer;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Customer'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 Customer no longer has any overdue accounts and IGI has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of IGI, the Customer has committed a serious credit infringement;
 - (h) advice that the amount of the Customer's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 20.7 The Customer shall have the right to request (by e-mail) from IGI:
- (a) a copy of the information about the Customer retained by IGI and the right to request that IGI correct any incorrect information; and
 - (b) that IGI does not disclose any personal information about the Customer for the purpose of direct marketing.
- 20.8 IGI will destroy personal information upon the Customer'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.
- 20.9 The Customer can make a privacy complaint by contacting IGI via e-mail. IGI 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 Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.

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21. Dispute Resolution

- 21.1 If a dispute arises between the parties to this contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:
- (a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and
 - (b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

22. Building and Construction Industry Security of Payment Act 2002

- 22.1 At IGI's sole discretion, if there are any disputes or claims for unpaid Goods and/or Services then the provisions of the Building and Construction Industry Security of Payment Act 2002 may apply.
- 22.2 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payment Act 2002 of Victoria, except to the extent permitted by the Act where applicable.

23. General

- 23.1 The failure by IGI to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect IGI'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.
- 23.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria in which IGI has its principal place of business, and are subject to the jurisdiction of the courts of Melbourne in Victoria.
- 23.3 Subject to clause 16, IGI shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by IGI of these terms and conditions (alternatively IGI's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 23.4 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by IGI nor to withhold payment of any invoice because part of that invoice is in dispute.
- 23.5 IGI may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 23.6 The Customer agrees that IGI may amend these terms and conditions at any time. If IGI makes a change to these terms and conditions, then that change will take effect from the date on which IGI notifies the Customer of such change. The Customer will be taken to have accepted such changes if the Customer makes a further request for IGI to provide Goods to the Customer.
- 23.7 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.
- 23.8 The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.