

PLASGAIN TERMS AND CONDITIONS

These Terms apply where Plasgain Pty Ltd (ACN 629 147 520) (**Plasgain**) supplies Goods and/or Services to a Customer.

1. Definitions

In these Terms:

Agreement means the agreement between Plasgain and the Customer which comprises:

- (a) these Terms;
- (b) each Order placed by the Customer and accepted by Plasgain under these Terms; and
- (c) the Credit Application (if any).

Australian Consumer Law means Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and the corresponding provisions of the relevant State and Territory fair trading acts;

Business Day means any day which is not a Saturday, Sunday or public holiday in Melbourne, Victoria, Australia;

Confidential Information means any information or data that is by its nature confidential, is designated by Plasgain as confidential, or that the Customer ought reasonably to know is confidential and which is disclosed, made available, communicated or delivered to the Customer by Plasgain (or any of its employees, officers, agents or contractors) directly or indirectly in connection with these Terms, and includes trade secrets, know-how, scientific, technical, product, market or pricing information relating to the Goods or Services or Plasgain's business, but excludes any information that is in or becomes part of the public domain otherwise than through a breach of these Terms or an obligation of confidence owed to Plasgain;

Consequential Loss means any loss which is indirect or consequential, including loss of revenue, loss of income, loss of business, loss of profits, loss of goodwill or credit, loss of business reputation or, future reputation or publicity, loss of use, loss of interest, damage to credit rating, or loss or denial of opportunity;

Consumer has the meaning given to it in section 3 of the Australian Consumer Law;

Consumer Guarantee means any right or statutory guarantee under Division 1 of Part 3-2 of the Australian Consumer Law;

Credit Application means an application for commercial credit completed by the Customer, in a form approved by Plasgain;

Customer means the person that purchases Goods under this Agreement;

Defective Goods means Goods that are defective in design, performance or workmanship;

Defective Services means Services that are defective in performance;

Goods means goods supplied by Plasgain to the Customer;

GST Act means *A New Tax System (Goods and Services Tax) Act 1999*;

Insolvency Event means the happening of any of these events:

- (a) a party suspends payment of its debts generally, or is or becomes unable to pay its debts within the meaning of the *Corporations Act 2001* (Cth);
- (b) a party enters into, or resolves to enter into, any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;

- (c) a receiver, receiver and manager, liquidator, provisional liquidator, administrator, trustee or similar official is appointed over any of the assets or undertakings of a party, an application or order is made for the winding up or dissolution of a party, or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of a party, except for the purpose of an amalgamation or reconstruction which has the other party's prior consent;

- (d) a party goes bankrupt; or

- (e) a party ceases, or threatens to cease, to carry on business;

Intellectual Property Rights means:

- (a) inventions, discoveries and novel designs, whether or not registered or registrable as patents or designs, including developments or improvements of equipment, products, technology, processes, methods or techniques;
- (b) copyright (including future copyright) throughout the world in all literary works, artistic works, computer software and any other works or subject matter in which copyright subsists and may in the future subsist;
- (c) Confidential Information;
- (d) trade and service marks (whether registered or unregistered), business names, trade names, domain names, logos and get-up; and
- (e) proprietary rights under the *Circuit Layouts Act 1989* (Cth).

Loss means any losses, liabilities, damages, costs, interest, charges, fines, penalties or expenses (including lawyer's fees and expenses on a full indemnity basis) whether direct, indirect, special, consequential or otherwise;

Order means the document which sets out details of the Goods and/or Services the Customer wishes to purchase from Plasgain;

Personal Information means 'personal information' as defined in the Privacy Act 1988 (Cth) any other information that is regulated by, or under, any applicable Privacy Law;

PPSA means the *Personal Property Securities Act 2009* (Cth);

Price means the price for the supply of the Goods or Services as provided for in clause 4;

Privacy Laws means all privacy laws including the Privacy Act 1988 (Cth), the Australian Privacy Principles under that Act, and any other laws relating to data protection, surveillance, direct marketing or the handling of personally identifiable information or data;

Representatives means officers, directors, employees, agents, representatives, contractors and/or subcontractors of the relevant party but a party to the Agreement and its officers, directors, employees, agents, representatives, contractors and subcontractors are not "Representatives" of the other party to the Agreement;

Services mean services supplied by Plasgain to the Customer;

Tax Invoice has the meaning given to it in the GST Act; and

Terms means these sale terms and conditions (as modified in accordance with these Terms).

2. Agreement

- (a) These Terms include all those statutory rights conferred on the Customer which Plasgain is not capable of excluding, restricting or modifying, including statutory rights conferred on the Customer under the Australian Consumer Law.
- (b) Subject to clause 2(a), Plasgain and the Customer acknowledge and agree that these Terms take precedence

over all other conditions of supply, and apply to the exclusion of all other documents, prior discussions, understandings and arrangements (written or oral, express or implied) and other representations (contractual or otherwise), whether or not endorsed or delivered with or referred to in any order or other documents delivered by the Customer to Plasgain.

- (c) Plasgain may alter these Terms on 30 days' notice to the Customer and the altered terms shall then:
 - (i) apply to Orders placed by the Customer after such notice period has elapsed; and
 - (ii) supersede all previous terms and conditions imposed by Plasgain regarding such Orders.
- (d) Acceptance by the Customer of these Terms, as amended from time to time in accordance with clause 2(c), may be by any of the following ways:
 - (i) by signing and returning a copy of these Terms;
 - (ii) by performing an act that is done with the intention of adopting or accepting these Terms, including continuing to order Goods or Services after receiving these Terms or an amended version of them from Plasgain; or
 - (iii) by oral acceptance.
- (e) The Customer warrants it does not intend to use the Goods or Services predominantly for personal, domestic or household purposes.

3. Orders

- (a) Each Order placed by the Customer will constitute an offer by the Customer to acquire the Goods or Services from Plasgain on and subject to these Terms and will form part of the Agreement if accepted by Plasgain.
- (b) Plasgain may refuse to accept an Order or any part of an Order placed by the Customer without providing a reason to the Customer.
- (c) Other than under as permitted under the Australian Consumer Law, the Customer may not without Plasgain's consent cancel an Order after Plasgain has accepted the Order. If Plasgain consents to the cancellation of an Order, the Customer will be liable for any costs incurred by Plasgain up to the time of cancellation, to the extent permitted by law.

4. Price

- (a) All prices quoted are in Australian dollars and except as otherwise expressly stated, are exclusive of insurance, delivery charges, GST and any other sales, value added or similar tax.
- (b) The price of the Goods and Services will be Plasgain's quoted price which will be binding on Plasgain for a period of 30 days from the date of quotation and which may be accepted by the Customer, by written notice to Plasgain, at any time within those 30 days unless earlier revoked by Plasgain.

5. Payment

- (a) Time for payment for the Goods and Services is of the essence and will be stated on Plasgain's invoice or quotation. If no time is stated by Plasgain then payment must be made on delivery of the Goods or the performance of the Services (as applicable).
- (b) All payments are to be made on or before the due date as a condition precedent to future deliveries or supplies under this or any other contract.
- (c) Plasgain may require the payment of a deposit, which must be paid by the Customer upon Plasgain accepting the Order.
- (d) The Customer must pay the Price for Goods or Services supplied to the Customer:
 - (i) in full on delivery of the Goods or the provision of the Services (as applicable); or
 - (ii) in accordance with any Credit Application; or

- (iii) if Plasgain agrees in writing at its discretion, within 30 days after the end of the month in which an invoice is sent to the Customer; and
 - (iv) using one of the following payment methods:
 - (v) credit card (plus any charges that may be applicable); or
 - (vi) direct debit; or
 - (vii) bank transfer; or
 - (viii) in any other way that Plasgain reasonably directs.
- (e) No amount owing by the Customer to Plasgain may be offset against any amount owing to the Customer from Plasgain under this Agreement or on any other account whatsoever.
 - (f) Without prejudice to any other rights or remedies of Plasgain, if the Customer fails to make (whether in full or in part) any payment required under these Terms on or before the due date for payment, then:
 - (i) the Customer must pay to Plasgain interest on the unpaid amount at 2% per annum above the average of the most recent prime rate, indicator rate, or reference rate (however described) for business overdrafts published by the Commonwealth Bank of Australia; and
 - (ii) such interest will accrue from the date payment was due to the date payment is made, will be calculated daily and capitalised monthly and must be paid by the Customer upon demand by Plasgain.
 - (g) If Plasgain takes steps or action to recover any amount due to it the Customer will be responsible for all Losses incurred by Plasgain in recovering the monies due.

6. Delivery

- (a) Plasgain will use all commercially reasonable efforts to deliver the Goods for which it has accepted an Order by the date (if any) specified in the Order and in the absence of any date, within a reasonable time.
- (b) The failure of Plasgain to deliver the Goods by the date specified in the Order does not entitle either party to treat an Order or this Agreement as repudiated.
- (c) Plasgain may deliver the Goods by separate instalments. Each separate instalment must be invoiced and paid for in accordance with clauses 4 and 5.
- (d) Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of these Terms.
- (e) Except where Plasgain's liability may not be excluded under the Australian Consumer Law, Plasgain is not liable for any Loss due to the failure by Plasgain to deliver the Goods (or any of them) promptly or at all, other than to refund any Price paid by the Customer where the Goods are not delivered at all.
- (f) Unless otherwise agreed, Plasgain's obligations under an Order will be deemed complete and delivery effected when risk in the Goods passes to the Customer in accordance with clause 7(a).

7. Title and Risk

- (a) Where Plasgain personally delivers the Goods to the Customer's delivery location or uses Plasgain's nominated transport provider, risk in the Goods passes to the Customer upon the Goods being signed for at the delivery location. In all other circumstances, risk in the Goods passes to the Customer when the Goods are loaded at Plasgain's warehouse for delivery to the Customer.
- (b) Title to the Goods passes to the Customer on payment in full of the Price for the Goods and all other amounts payable by the Customer to Plasgain on any account whatsoever.

- (c) All payments received from the Customer may be applied by Plasgain in the manner that Plasgain, in its absolute discretion, determines.
- (d) Until full payment in cleared funds is received by Plasgain for all Goods supplied by it to the Customer, the Customer must, at its own cost, insure and keep insured the Goods against such risks as a prudent owner of the Goods would insure at their full cost price, with a reputable insurance company.
- (e) Until full payment in cleared funds is received by Plasgain for all Goods supplied by it to the Customer, as well as all other amounts payable by the Customer to Plasgain on any account whatsoever:
 - (i) legal title and property in all Goods supplied under this Agreement remain vested in Plasgain and do not pass to the Customer;
 - (ii) subject to clause (iii) below, the Customer must keep the Goods separate from other goods and maintain the labelling and packaging of Plasgain so that they are readily identifiable as the property of Plasgain;
 - (iii) the Customer must not sell the Goods except in the ordinary course of the Customer's business;
 - (iv) in addition to any rights Plasgain may have under Chapter 4 of the PPS Act, Plasgain may, at any time, demand the return of the Goods and shall be entitled without notice to the Customer and without liability to the Customer, to enter any premises where it suspects the Goods may be located in order to search for and remove the Goods without committing a trespass, even though they may be attached or annexed to other goods or land not the property of Plasgain, and for this purpose the Customer irrevocably licenses Plasgain to enter such premises, undertakes that it will procure any necessary authority to enter from any relevant person and also indemnifies Plasgain from and against all loss suffered or incurred by Plasgain as a result of exercising its rights under this clause, except to the extent that such loss was directly caused by Plasgain's negligence. If there is any inconsistency between Plasgain's rights under this clause 7(e)(iv) and its rights under Chapter 4 of the PPS Act, this clause 7(e)(iv) prevails;
 - (v) the Customer acknowledges and warrants that Plasgain has a security interest (for the purposes of the PPSA) in the Goods until title passes to the Customer in accordance with this clause 7. The Customer must do anything reasonably required by Plasgain to enable Plasgain to register its security interest, with the priority Plasgain requires and to maintain that registration; and
 - (vi) the security interest arising under this clause 7 attaches to the Goods when the Customer obtains possession of the Goods and the parties confirm that they have not agreed that any security interest arising under this clause 7 attaches at any later time.

8. Samples and Descriptions

- (a) As variations will occur in the colour and texture of materials used in the manufacture of products no warranty or guarantee is given by Plasgain that the Goods will correspond in appearance with any sample, display, or goods previously sold, except as required under the Australian Consumer Law.
- (b) No warranty or guarantee is given by Plasgain whatsoever regarding the quality, condition, colour, merchantability, or fitness for purpose of the Goods, except as required under the Australian Consumer Law.
- (c) The Customer expressly acknowledges that for all purposes whatsoever the Customer has relied entirely on its own knowledge, skills, and judgment in selecting and placing an Order for the Goods.

9. Shortfalls

- (a) The Customer must, as soon as possible after delivery, check the quantity of the Goods delivered against the quantity due to be delivered.
- (b) To the extent permitted by law, Plasgain is not responsible for making good any shortfall unless the Customer gives Plasgain notice of the shortfall within 10 Business Days after delivery.

10. Defective Goods or Services

- (a) The Customer must, as soon as possible after delivery of the Goods or the performance of the Services, check whether the Goods or Services are Defective Goods or Defective Services when delivered and/or performed.
- (b) Goods and Services will be considered to have been delivered and supplied in good condition, with due skill and care, within a reasonable time, fit for purpose and to the satisfaction of the Customer unless the Customer gives Plasgain notice of the damage or defect within 10 Business Days after delivery (**Defect Notice**).
- (c) If the Customer gives Plasgain a Defect Notice in relation to Goods, it must:
 - (i) preserve the Goods in the state in which they were delivered for 10 Business Days after it gives Plasgain the notice; and
 - (ii) during that period, allow Plasgain access to the Customer's premises to inspect the Goods; or
 - (iii) at Plasgain's request return the Goods within 20 Business Days after the delivery date in the condition in which they were delivered and with all packaging material in as new condition as is reasonably possible in the circumstances; and
 - (iv) where the Customer is responsible for the defect in the Goods, pay the costs of returning the Goods in accordance with sub-clause (iii). Where Plasgain is responsible for the defect in the Goods, Plasgain will pay the costs of returning the Goods.
- (d) Where the Customer returns the Goods to Plasgain following a Defect Notice, and Plasgain reasonably determines that the defect in the Goods has been caused by the Customer, Plasgain may charge to the Customer a restocking fee of up to 20% of the price of the Goods.
- (e) The Customer must, as soon as possible after the Services have been provided, give Plasgain notice of any Defective Services within 10 Business Days after the relevant Service has been provided.

11. Claims and limitation of liability

- (a) The Australian Consumer Law provides Consumers with a number of Consumer Guarantees that cannot be modified, excluded or limited. The limitations of liability set out in these Terms are therefore subject to, and will not apply to the extent that they modify, limit or exclude such Consumer Guarantees.
- (b) The Customer must:
 - (i) promptly inform Plasgain of all complaints or claims relating to any of the Goods or Services;
 - (ii) not admit liability on behalf of Plasgain in respect of any complaint or claim relating to any of the Goods or Services;
 - (iii) not resolve or settle any complaint or claim relating to any of the Goods or Services which may result in Plasgain incurring any liability (whether to a purchaser, the Customer or any other person); and
 - (iv) deal promptly with all complaints or claims relating to any of the Goods or Services which will not result in Plasgain incurring any liability.
- (c) Subject to clauses 11(a) and 11(d), Plasgain's liability for any Loss suffered or incurred by the Customer, howsoever

caused, which arises out of or in connection with the supply of the Goods or Services under the Agreement including for a breach of Consumer Guarantees:

- (i) in the case of Goods, is limited to:
 - (A) the repair of the Goods;
 - (B) the replacement of the Goods or the supply of equivalent goods; or
 - (C) the payment of the cost of replacing the Goods or of acquiring equivalent goods; and
 - (ii) in the case of the Services, is limited to:
 - (A) the supplying of the Services again; or
 - (B) the payment of the cost of having the Services supplied again; and
 - (iii) in any other case, is excluded such that Plasgain shall not be liable to the Customer, except to the extent that the Loss suffered or incurred by the Customer was directly caused by an act or omission of Plasgain.
- (d) Plasgain's liability in respect of a breach of or a failure to comply with an applicable Consumer Guarantee will not be limited in the way set out in clause 11(c) if:
- (i) the Goods or the Services supplied are goods or services 'of a kind ordinarily acquired for personal, domestic or household use or consumption', as that expression is used in section 64A of the Australian Consumer Law;
 - (ii) it is not 'fair or reasonable' for Plasgain to rely on such limitation in accordance with section 64A(3) of the Australian Consumer Law; or
 - (iii) the relevant Consumer Guarantee is a guarantee pursuant to sections 51, 52 or 53 of the Australian Consumer Law.
- (e) Except only for those rights and remedies that the Customer has in respect of the Goods or Services under the Australian Consumer Law which cannot be lawfully excluded, restricted or modified:
- (i) Plasgain excludes any liability for Consequential Loss;
 - (ii) all conditions, warranties and implied terms, whether statutory or otherwise, are excluded in relation to the Goods and Services; and
 - (iii) Plasgain is not liable to the Customer for any Loss which the Customer suffers, incurs or is liable for in connection with supply of the Goods or Services under the Agreement, except in accordance with this clause 11.

12. Intellectual Property

- (a) Plasgain remains the owner or licensee (as the case may be) of all Intellectual Property Rights owned or used by Plasgain prior to the Agreement and any other agreement with the Customer.
- (b) Where any designs or specifications have been supplied by the Customer, the Customer warrants that the use of those designs or specifications for the manufacturing, processing, assembly or supply of the Goods does not infringe the rights of any third party.
- (c) The parties agree that any Intellectual Property Rights created or developed under or in connection with the Agreement or in the course of supplying the Goods are owned by Plasgain. For the avoidance of doubt, where Plasgain has designed or drawn Goods for the Customer, then the copyright in those designs and drawings remain vested in Plasgain, and may only be used by the Customer at Plasgain's discretion.

13. GST

- (a) Words or expressions used in this clause 13 that are defined in the GST Act have the same meaning given to them in that Act.

- (b) Unless otherwise stated, any amount specified in the Agreement as the consideration payable for any taxable supply does not include any GST payable in respect of that supply.
- (c) If a party makes a taxable supply under the Agreement (**Supplier**), then the recipient of the taxable supply (**Recipient**) must also pay, in addition to the consideration for that supply, the amount of GST payable in respect of the taxable supply at the time the consideration for the taxable supply is payable.

14. Termination

- (a) Either party (**Terminating Party**) may immediately terminate the Agreement by written notice to the other party if the other party (**Defaulting Party**):
 - (i) breaches the Agreement in a material respect and, in the reasonable opinion of the Terminating Party, the breach:
 - (A) cannot be remedied; or
 - (B) can be remedied, but is not remedied by the Defaulting Party within 15 Business Days after the Terminating Party gives the Defaulting Party notice of the breach; or
 - (ii) suffers an Insolvency Event.
- (b) The Customer must, within 10 Business Days after the date of expiry or termination of the Agreement:
 - (i) pay Plasgain all amounts it owes Plasgain, whether due at that time or not; and
 - (ii) return all Confidential Information to Plasgain.
- (c) If the Agreement is terminated under this clause 14, Plasgain will have an immediate right to possession of Goods held by the Customer which have not been paid for by the Customer in full, and all amounts owing by the Customer in respect of the Goods together with all other debts owing by the Customer to Plasgain which will become due and payable and must be paid by the Customer on demand by Plasgain. Further, Plasgain will be entitled (without prejudice to any other right or remedy provided under these Terms or otherwise) to do any one or more of the following:
 - (i) suspend indefinitely all further deliveries of Goods in respect of any Orders being processed for delivery and cancel any Order or refuse to accept any further Orders;
 - (ii) cancel any credit facility provided to the Customer;
 - (iii) require the return of all Goods the property in, and ownership of, has not passed in accordance with clause 7; and
 - (iv) exercise its rights under clause 7 to enter the Customer's premises wherever situated without impediment, and with the full co-operation and assistance of the Customer, to locate, retrieve and take possession of Goods held by the Customer.

15. Indemnity

- (a) Subject to clause 15(c), the Customer indemnifies Plasgain and its Representatives against any Loss which Plasgain and its Representatives suffer, incur or are liable for in connection with:
 - (i) any act or omission of the Customer or its Representatives;
 - (ii) any breach of the Agreement by the Customer; and
 - (iii) enforcing any security interest arising under the Agreement.
- (b) Plasgain holds the benefit of the indemnity in clause 15(a) on trust for its Representatives.
- (c) The indemnity in clause 15(a) will not apply to the extent that any Loss is caused or contributed to by Plasgain.

16. Confidential Information

- (a) The Customer is authorised to use the Confidential Information for the sole purpose of using or selling the Goods or Services supplied under the Agreement and must not otherwise use or disclose any Confidential Information to any third party, except with the prior written consent of Plasgain or to the extent required by law.
- (b) The Customer must not transfer or disclose Confidential Information or Personal Information received from Plasgain to any recipient outside Australia without Plasgain's prior written consent.
- (c) On request, the Customer must deliver to Plasgain (or if specifically requested, destroy or immediately cease accessing and otherwise using) all hard copy and electronic documents, materials and things containing Confidential Information, or Personal Information received from Plasgain, that is in the possession, custody or control of Plasgain or any person it has disclosed it to and certify to Plasgain that it has done so.

17. Privacy

- (a) The Customer consents to Plasgain obtaining from a credit-reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by Plasgain.
- (b) The Customer agrees that Plasgain may exchange information about the Customer with those credit providers named in the application for credit account or named in a consumer credit report issued by a reporting agency for the following purposes:
 - (i) to assess an application by the Customer;
 - (ii) to notify other credit providers of a default by the Customer;
 - (iii) 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
 - (iv) to assess the credit worthiness of the Customer.
- (c) The Customer consents to Plasgain being given a consumer credit report to collect overdue payment on commercial credit.
- (d) The Customer agrees that Personal Information provided by the Customer may be used and retained by Plasgain for the following purposes (and for other purposes as may be agreed between the Customer and Plasgain or required by law from time to time):
 - (i) the provision of Goods and/or Services;
 - (ii) the marketing of Goods or Services by Plasgain, its agents or distributors in relation to Plasgain's goods and services;
 - (iii) analysing, verifying or checking the Customer's credit, payment and status in relation to provision of goods and services;
 - (iv) processing of any payment instructions, direct debit facilities and credit facilities requested by the Customer; and
 - (v) enabling the daily operation of the Customer's account and the collection of amounts outstanding in the Customer's account in relation to the Goods or Services.
- (e) Plasgain may give information about the Customer to a credit reporting agency for the following purposes:
 - (i) to obtain a consumer credit report about the Customer; and
 - (ii) to allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.

- (f) In relation to any Personal Information that the Customer provides or makes available to Plasgain in connection with these Terms, the Customer warrants that it has complied with all Privacy Laws and that it has all necessary rights and consents required by law for Plasgain to be able to receive, use, disclose and otherwise process such Personal Information in the manner contemplated by these Terms (**permitted dealing**), and that any permitted dealing will not cause Plasgain to breach any Privacy Laws. If the Customer receives any Personal Information from Plasgain in connection with these Terms, the Customer must:
 - (i) handle that Personal Information in accordance with the Privacy Laws and any directions or guidelines issued by Plasgain;
 - (ii) use that Personal Information only for the purposes of performing its obligations under these Terms; and
 - (iii) unless otherwise expressly permitted by Plasgain or required by law, not disclose that Personal Information to any person.

18. Force Majeure

- (a) In this clause 18, **Force Majeure** means an act of God; war, revolution or any other unlawful act against public order or authority; an industrial dispute including strike or other labour disturbances; an epidemic, pandemic, border closure, governmental restraint or order; a shortage or unavailability of raw materials, production capacity or transportation; and any other event not within the reasonable control of Plasgain.
- (b) Where Force Majeure prevents, hinders or delays Plasgain from performing any obligation under the Agreement, the requirement to perform that obligation is suspended as long as the Force Majeure continues.

19. PPSA

- (a) Unless a contrary intention appears, words or expressions used in this clause 19 that are defined in the PPS Act have the same meaning as given to them in the PPS Act.
- (b) If at any time Plasgain determines that the Agreement (or any of the transactions contemplated by or under it) creates a security interest in its favour over any personal property, Plasgain may apply for any registration, or give any notification, in connection with that security interest and the Customer must promptly, upon Plasgain's request, do any thing (including signing and producing documents, getting documents completed or signed, obtaining consents and supplying information) to:
 - (i) provide more effective security over the relevant personal property;
 - (ii) ensure that any such security interest in favour of Plasgain:
 - (A) is at all times enforceable, perfected (including, where applicable, by control as well as by registration) and otherwise effective; and
 - (B) ranks as a first priority security interest;
 - (iii) enable Plasgain to prepare and register a financing statement or a financing change statement or give any notification in connection with that security interest; and
 - (iv) enable Plasgain to exercise any of its rights or perform any of its obligations in connection with any such security interest or under the PPS Act.
- (c) All reasonably incurred costs and expenses arising as a result of actions taken by Plasgain pursuant to clause 19(b) will be for the account of Plasgain and the Customer equally. The Customer must pay Plasgain pursuant to this clause 19(c) within 5 days of a written request.
- (d) If Chapter 4 of the PPS Act would otherwise apply to the enforcement of the security interest created under the

Agreement, the Customer agrees that the following provisions of the PPS Act will not apply:

- (i) section 95 (notice of removal of accession), to the extent that it requires Plasgain to give a notice to the Customer;
 - (ii) section 121(4) (enforcement of liquid assets – notice to grantor);
 - (iii) section 125 (obligation to dispose of or retain collateral);
 - (iv) section 130 (notice of disposal), to the extent that it requires Plasgain to give a notice to the Customer;
 - (v) paragraph 132(3)(d) (contents of statement of account after disposal);
 - (vi) subsection 132(4) (statement of account if no disposal);
 - (vii) section 142 (redemption of collateral); and
 - (viii) section 143 (reinstatement of security agreement).
- (e) Plasgain does not need to give the Customer any notice required under the PPS Act (including a notice of a verification statement under section 157 of the PPS Act) unless the requirement for the notice cannot be excluded.
- (f) Neither party will disclose to a person or entity that is not a party to the Agreement information of the kind mentioned in section 275(1) of the PPS Act unless section 275(7) of the PPS Act applies or that information is publicly available. The obligations of each party under this clause 19(f) are in addition to the obligations of the Customer under clause 16.

20. General

- (a) The Agreement is governed by the laws of Victoria. The parties submit to the non-exclusive jurisdiction of the courts of that State and courts entitled to hear appeals from those courts.
- (b) A reference to legislation includes any amendment to that legislation, any consolidation or replacement of it, and any subordinate legislation made under it.
- (c) In these Terms, the words 'include', 'including', 'for example', 'such as' or any form of those words or similar expressions do not limit what else is included and must be construed as if they are followed by the words 'without limitation' unless there is express wording to the contrary.
- (d) If a provision in these Terms is wholly or partly void, illegal or unenforceable in any relevant jurisdiction that provision or part must, to that extent, be treated as deleted from the Agreement for the purposes of that jurisdiction. This does not affect the validity or enforceability of the remainder of the provision or any other provision of these Terms.
- (e) If the Customer comprises more than one person, the Agreement binds each Customer jointly and severally and Plasgain is only required to give notices, quotes and other information to one of the Customers.
- (f) A waiver of any right arising under the Agreement must be in writing and signed by the party granting the waiver. Except as provided under clause 2, any variation of the Agreement must be in writing and signed by the parties.
- (g) Plasgain and the Customer are independent contracting parties and nothing in the Agreement makes either party the agent or legal representative of the other or grants either party any authority to assume or create an obligation on behalf of the other.
- (h) Without limiting or affecting the continued operation of any clause which as a matter of construction is intended to survive the termination of the Agreement, clauses 5, 9, 11, 12, 13, 14(b), 14(c), 15, 16, 17, 19 and 20 survive the termination of the Agreement.