COMMERCIAL TERMS AND CONDITIONS

FRASER & JENKINSON PTY LTD ABN 21 004 110 070 ("**Manufacturer**") will only manufacture and supply goods ("Goods") on the following terms and conditions ("Terms and Conditions") unless the Manufacturer agrees, in writing, to vary the Terms and Conditions:

1. Definitions

"Customer" means any person, firm, Corporation or entity, which purchases or orders Goods or Services from the Manufacturer.
"Goods" means products or services supplied or to be supplied by the Manufacturer to the Customer.

"G.S.T." means the Goods and Services Tax created by A New Tax System (Goods and Services Tax) Act 1999 and its associated legislation.

"Order" means a purchase order, or other request, issued by the Customer to the Manufacturer and shall be deemed to include the Terms and Conditions and any variations thereof agreed in writing by the Manufacturer.

"PPSA" means the *Personal Properties Securities Act* 2009.

"Quotation" means the work to be undertaken by the Manufacturer and an estimate of the Manufacturer's charge for the Goods to be provided.

The plural includes the singular and vice versa (including for the Definitions).

2. Quotations and Orders

2.1. Any Quotation made by the Manufacturer ("**Quotation**") will remain current for a period of seven (7) days from the date of quotation and will be subject to the recipient meeting the Manufacturer's credit requirements and incorporates these Terms and Conditions.

2.2. G.S.T. will be charged to the Customer (and payable by the Customer in accordance with the invoice) unless the Customer supplies an approved exemption certificate.

2.3. Notwithstanding Clause 2.1, the Manufacturer reserves the right to alter any price included in the Quotation if, at any time within the 7 day period referred to in Clause 2.1, there is a variation in the cost of labour or materials used to manufacture the Goods. If the increase in price is conveyed to the Customer after its acceptance of the Quotation, the Customer is entitled to withdraw its acceptance and reject the Quotation by written notice to the Manufacturer within 48 hours of its receipt of the notice of increase in price.

3. Payment & Credit Terms

3.1. The Manufacturer's terms of payment are 30 days after the month of billing however the Manufacturer reserves the right, at all times, to vary payment and credit terms depending on the individual client situation and trading history. If such variation is not acceptable to the Customer, then the Customer may immediately terminate these Terms and Conditions by notice in writing to the Manufacturer and such change in terms will not apply to any already accepted Quotations.

3.2. If the Customer defaults in making payment to the Manufacturer in accordance with these Terms and Conditions, the Manufacturer may in its absolute discretion:

(i) charge the Customer interest calculated on the portion of the Customer's account overdue at the penalty rate fixed under the Penalty Interest Rates Act 1983 (Victoria), calculated from the due date until payment; and

(ii) require the Customer to reimburse the Manufacturer for all collection costs including (but not limited to) legal costs incurred by the Manufacturer.

3.3 The Manufacturer reserves the right to request "Cash on Order" or part payment upfront for first time customers. Failure to meet standard terms of payment as detailed in the attached Terms & Conditions may result in "Cash on Order" trade only.

3.4 The Manufacturer reserves the right to pass on credit card charges to the Customer, if payment is agreed to be accepted by credit card. These charges are not included in prices quoted.

3.5 The Manufacturer reserves the right to withdraw credit at any time, upon reasonable grounds (including breach of these Terms and Conditions or material change in the Customer's creditworthiness), upon which all liabilities owing by the Customer become due and payable to the Manufacturer. The Manufacturer will provide the Customer with prior notice before withdrawing credit.

4. Quantity

4.1. The Manufacturer will use its best endeavours to supply the quantity ordered but due to the problems in producing exact quantities, all estimates and/or Orders are subject to a margin of ten per cent (10%) for oversupply or undersupply of the Goods, which shall be charged for or allowed for at rates calculated on a pro rata basis of the prices included in the Order.

5. Packaging

5.1. Packaging (unless otherwise specified by the Customer) will be in non-returnable cartons.

6. Proofs

6.1. The Manufacturer will forward to the Customer, together with the Customer's original copy, proofs required by the Customer which will be chargeable as set out in the Quotation.

6.2. One set of proofs and the original copy must be returned to the Manufacturer upon being read and checked by the Customer and clearly marked and signed with words to the effect of *approved to print*, or *alterations required*.

6.3. The Manufacturer will not be liable for any errors in the proof if prepared in accordance with the Customer's instructions or if printed in accordance with the Customer's authorisations. The Customer will be charged for any consequent corrections made to the proofs by the Manufacturer.

7. Intellectual Property

7.1. All drawings, sketches, paintings, photographs, designs, engravings, electronic files and computer disks required for heading, trademark or other purposes (apart from normal type) must be supplied by the Customer in a condition satisfactory to the Manufacturer or, in default, the Manufacturer is authorised by the Customer to furnish any such items at the Customer's expense. Upon completion of the Order the Manufacturer must, at the request of the Customer, return any such items to the Customer.

7.2. All artwork, bromides, film, sketches, photographs, designs, electronic files and computer disks and other forms of artwork remain at all times the property of the Customer. The Manufacturer is entitled to retain these items for a maximum of three (3) years unless the Customer otherwise requests, in writing, for them to be returned. At the expiry of three (3) years it is agreed that the Manufacturer may at its discretion destroy such items without notice to the Customer. If a written request is made by the Customer within that three (3) year period for the return of those items, the Manufacturer must return them to the Customer within a reasonable time frame at the Customer's expense.

7.3. Any copyright material and trademarks (whether registered or not) of which the Customer is the owner or licensee (whichever applicable) are, to the extent the Manufacturer uses them for execution of the Order, licensed or sub-licensed (whichever the case) by the Customer to the Manufacturer.

7.4. The Customer must indemnify and keep indemnified the Manufacturer against all liability (including legal costs) in respect of any infringement or alleged infringement of any copyright or trademark used in execution of the Order to the extent caused or contributed to by the Customer.

8. Customer's Material

8.1. The Manufacturer will not be liable for any shortage, loss or damage to any paper, stocks and other material ("**Customer's Materials**") left with the Manufacturer by the Customer regardless of how such loss or damage may be caused, except to the extent that any loss or damage was directly caused or contributed to by the negligent, wilful or fraudulent conduct of the Manufacturer.

8.2. The Manufacturer will have a general lien on, or the right of retention of, the Customer's Materials until all moneys owing by the Customer to the Manufacturer have been paid.

9. Withholding Supply

9.1. The Manufacturer reserves the right, without notice and irrespective of whether or not an Order has been accepted, to withhold supply of the Goods to the Customer and the Manufacturer will not be liable for any loss or damage resulting directly or indirectly from such action where:

(a) the Customer's Materials supplied by the Customer to the Manufacturer are insufficient to fulfil the Order; or

(b) the Customer defaults in payment or breaches a material term (express or implied) under these Terms and Conditions.

10. Force Majeure

10.1. The Manufacturer will not be liable in damages or otherwise for any failure to fulfil an Order which is caused, whether wholly or partially, by an event beyond its reasonable control including (but not limited to) an Act of God, war, terrorism, fire, explosion, rioting, burglary, theft, civil disturbances, epidemic, pandemic, storm, flood, restrictions by governments (local, municipal, State or Federal) or other competent authority, strikes or lockouts (whether at the Manufacturer's premises or not), accidents either at the Manufacturer's premises or when in transit to or from those premises, failure by subcontractors, late arrival of paper stocks or other material or any other circumstances arising from any cause or causes whatsoever beyond the reasonable control of the Manufacturer and the Customer agrees to accept delayed delivery of the Goods ordered.

10.2. The Manufacturer agrees to use its reasonable endeavours to mitigate the effects of any event beyond its' reasonable control which prevents it from performing its' obligations under these Terms and Conditions.

11. General Lien, Risk & Title

11.1. The Manufacturer shall, in respect of all sums owed by the Customer, have a general lien over all Goods in the Manufacturer's possession and may after thirty (30) days' notice to the Customer sell such Goods and apply the proceeds, net of any sales costs, in satisfaction of all, or any part, of the sums owed by the Customer.

11.2. All Goods held by the Customer remain the property of the Manufacturer until payment has been received in full by the Manufacturer.

11.3. If the Customer arranges collection of the Goods from the warehouse of the Manufacturer then risk of or loss or damage to the Goods passes to the Customer upon the date and at the time that the Goods are collected from the warehouse of the Manufacturer (or third party contractor) for the purpose of delivery to the Customer. If the Manufacturer arranges delivery of the Goods from the warehouse of the Manufacturer to the Customer, then risk of or loss or damage to the Goods passes to the Customer upon the date and at the time that the Goods are delivered to the Customer's nominated place of delivery.

12. Personal Properties Securities Act (PPSA)

12.1. The Customer grants the Manufacturer a security interest, as defined in the PPSA, in all Goods and their proceeds until payment of all amounts owing to the Manufacturer has been made. The Customer will not create any other security interest in the Goods until title passes to the Customer.

12.2. Subject to this clause and the PPSA, the Customer may use or resell the Goods as bailee, including combining the Goods with others, in the ordinary course of their business provided the Customer holds the proceeds from them on trust for the Manufacturer until the amounts owing for the Order relating to such Goods are paid in full.

12.3. The Customer's right to possession and sale of the Goods ceases if it defaults in making full payment on the due date or goes into liquidation and then the Manufacturer may, at its option, takeover the Goods (including entering the Customer's premises to do so) and dispose of the Goods in its own interest without prejudice to any claim by it for damages for loss resulting from such resale. Any net amount recovered by such resale in excess of such loss and damages or other amounts owing by the Customer will be promptly paid to the Customer.

12.4. The parties agree to contract out of each of the provisions of the PPSA allowed by Sections 115 of the PPSA to the following extent:

(i) an exercise by the Manufacturer of any right, power or remedy will be taken not to be under a provision mentioned in that section of the PPSA if the right, power or remedy would be available under any other law or statute or under these Terms and Conditions unless the Manufacturer so elects; and

(ii) any restriction of the exercise by the Manufacturer of a right, power or remedy, or any obligation of the Manufacturer to give notice, will not apply to the extent that that section so allows.

12.5. The Customer:

(i) consents to the Manufacturer registering a security interest on the Personal Property Securities Register ("**PPSR**") under the PPSA in relation to the Goods and the Customer will provide all assistance reasonably required to facilitate this; and

(ii) waives the right to receive notice of a verification statement in relation to any registration on the PPSR.

12.6. The provisions of the Terms and Conditions are confidential and neither party will disclose any details of it to any person and the Customer will not disclose any information of the type specified in section 275(1) of the PPSA to any other party.

12.7. The Customer must notify the Manufacturer immediately in writing if there are any changes to data required to register a financing statement or financing change statement under the PPSA.

13. Default

13.1. If either party:

(i) has a liquidator appointed to it; or

(ii) breaches any of these Terms and Conditions and fails to rectify such breach within 7 days of receiving notice to do so by the other party,

the non-defaulting party may terminate these Terms and Conditions, or any other contract between the parties and/or suspend all credit.

13.2. If the Customer fails to make payment to the Manufacturer when due, or if the Manufacturer reasonably believes that its Goods are at risk of being disposed of otherwise than in accordance with these Terms and Conditions, or its title to the Goods is being challenged, or the Customer's creditworthiness has materially deteriorated, the Manufacturer may in its absolute discretion:

(i) decline to deliver any Goods which have not yet been delivered;

(ii) otherwise cease to perform any of its obligations to the Customer:

(iii) terminate these Terms and Conditions, or any other contract, between the parties and/or suspend all credit: and/or

(iv) require that the Customer return any Goods for which

there are amounts owing and, without prejudice to any other rights, immediately take possession, recover and retain or resell or otherwise dispose of those Goods without notice to the Customer, and the Customer irrevocably authorises the Manufacturer to enter the Customer's premises for those purposes without notice and without liability to the Customer, or any other person (other than due to wilful misconduct), and the Customer agrees to indemnify the Manufacturer against any liability incurred by the Manufacturer in doing so.

14. Exclusions and Limitations

14.1. To the extent permitted by law, the Manufacturer excludes all statutory or implied conditions and warranties.

14.2. To the extent permitted by law, the Manufacturer limits its liability under any condition or warranty which cannot legally be excluded to (at the Manufacturer's option):

(i) in the case of the Goods, by the supply by the Manufacturer of equivalent Goods; or by the replacement of Goods previously supplied or by payment of the cost of re-supply; or

(ii) in the case of advice, recommendation(s), information or services: by supplying the same again.

14.3. If the Goods come with guarantees that cannot be excluded under the Australian Consumer Law, the Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage.

14.4. The Manufacturer's liability under these Terms and Conditions in respect of any supply is limited to the amount payable under the applicable Order.

14.5. To the extent permitted by law, the liability of either party arising in connection with these Terms and Conditions, whether arising from contract, tort (including negligence), warranty or otherwise, will in no event exceed the amounts payable under these Terms and Conditions in respect of the applicable Order except to the extent such liability arises from a party's wilful misconduct or fraud.

14.6. Notwithstanding clause 14.5, the Manufacturer or Customer's liability will not be limited in the following circumstances:

(i) any liability relating to claims for personal injury, including sickness or death;

(ii) any liability relating to claims by third parties for breach of intellectual property rights; and

(iii) any liability which cannot be excluded at law.

14.7. To the extent permitted by law, neither party is liable for any consequential, incidental, indirect, economic or punitive damages incurred by the other party arising out of or relating to these Terms and Conditions, including loss of goodwill and reputation, loss of production, loss of business, loss of the services of any service provider, loss of data or loss of revenue, profit, or anticipated revenue or profit.

15. Claims

15.1. Any claims by the Customer must be made within seven (7) days of delivery.

15.2. The Customer acknowledges that its agents and employees may place Orders for Goods with the Manufacturer and that it shall be bound by these Terms and Conditions unless such Orders are, to the knowledge of the Manufacturer, unauthorised or fraudulent.

16. Storage of Finished Goods

16.1. Any storage of finished Goods is subject to the maximum period of storage being six (6) months unless there is a written agreement in place specifying other terms or arrangements. For any finished Goods stored on behalf of the Customer and to be paid for on each delivery, the Customer acknowledges that it will enter into a storage agreement provided by the Manufacturer.

16.2. Customer owned Goods held in storage by the Manufacturer for more than six months are subject to reasonable storage charges at the discretion of the Manufacturer and the Customer agrees to pay such storage charges within fourteen (14) days from receipt of invoice by the Manufacturer.

16.3. The Customer will insure all Goods held in storage by the Manufacturer against such risks as a prudent owner of the Goods would insure them for their full insurable value.

17. Privacy Act

17.1. The Customer agrees to the terms of the Privacy Policy available at www.pmg.com.au at the time of the applicable Quotation.

18. Governing Law

18.1. The laws of the State of Victoria govern the Manufacturer's trading and these Terms and Conditions.

18.2. The Customer agrees to submit to the exclusive jurisdiction of the Courts of Victoria and the Federal Courts of Australia sitting in Victoria and agrees that any legal proceedings will be heard in those courts (and courts of appeal therefrom).

19. Whole Agreement

19.1. These Terms and Conditions and the accompanying Commercial Credit Account Application including the guarantee and indemnity therein, embody the whole agreement (as to the subject matter of these Terms and Conditions) between the parties and exclude any other terms and conditions contained in any document or internet transmission from the Customer relevant to the supply of Goods. The parties acknowledge and agree that all previous dealings, representations and arrangements in relation to the supply of Goods are hereby excluded and cancelled and replaced by these Terms and Conditions. Should any part of these Terms and Conditions be held to be void or unlawful, these Terms and Conditions will be read down and enforced as if the void or unlawful provisions had been deleted.