

**This Credit Application and New Account Form (including Guarantee & Indemnity and Trading Terms and Conditions) shall be in respect of Bambury Pty Ltd (ACN 065 811 949) atf the Lodge Family Trust ("Bambury")**

Please email your completed Credit Application to [accounts@bambury.com.au](mailto:accounts@bambury.com.au)

## 1. APPLICANT DETAILS (referred to as 'Customer' in Trading Terms)

### A) Company Applicants only

Registered Name of Incorporated Entity

ACN

Company Type:

Public

Private

Trading Name/Business Name (if any)

ABN

### B) Partnership/Sole Trader/Trust Applicants only

Partnership/Proprietor/Trustee Name

Trading Name/Business Name (if any)

Does the Applicant trade as a Trading Trust?

Yes

No

Type of Trust:

Discretionary

Unit

### C) All applicants must complete

Date Business Commenced

/ /

ABN

Postal Address

Postcode

Business Address

Postcode

Telephone ( )

Mobile Ph

Fax ( )

Web Address

Email

Delivery Details

As above

Delivery Address Line 1

Delivery Address Line 2

Special Instructions

Are you a member of a Franchise or Buying Group? Yes No

If yes, which group are you connected with?

## 2. FREIGHT DETAILS FOR COUNTRY CUSTOMERS/CUSTOMERS OUTSIDE CAPITAL CITY ZONE:

All orders are delivered FICC (free into capital city). Customers outside capital city zones must nominate a preferred on-forward transport carrier to avoid freight charges on each order. Freight zones are determined by Star Track Express; your exact zone is available on request.

On-Forward Transport Carrier:

Full Address:

Account Number:

**PLEASE NOTE:** By leaving this on-forward transport carrier section blank you agree to pay freight charges calculated for each order, based on volume.

### 3. CONTACT DETAILS

#### A) Account Contact Details      Mr      Mrs      Ms

Telephone (      )

Fax (      )

Email

Mobile

Invoicing Email

As above

#### B) Sales and Webstore Contact Details      As above

Contact Name

Telephone (      )

Email\*

Mobile

\*A unique password will be sent to this email address to allow access to our online services.

#### C) Executive Details (Please select)      DIRECTORS      PARTNERS      SOLE TRADER

Name in full

Date of Birth      /      /

Position/Occupation

Driver's Licence No

Residential Address

Postcode      Owned      Renting

Name in full

Date of Birth      /      /

Position/Occupation

Driver's Licence No

Residential Address

Postcode      Owned      Renting

Name in full

Date of Birth      /      /

Position/Occupation

Driver's Licence No

Residential Address

Postcode      Owned      Renting

### 4. TRADE REFERENCES

Please be sure to include email addresses, as most businesses will only issue written trade references. Phone numbers are to be provided as a back up only when we are having difficulty making contact with your references via email.

1.      Business      Contact

Telephone (      )

Email

2.      Business      Contact

Telephone (      )

Email

3.      Business      Contact

Telephone (      )

Email

4.      Business      Contact

Telephone (      )

Email

**I do not wish to apply for credit** NB: New businesses with little or no trading history will be placed on Proforma Terms & have the opportunity to reissue trade references after trading history is gained.

## Credit Application General Terms

1. By signing this Credit Application, the Customer hereby acknowledges and agrees that the Customer is applying for a Credit Account with Bambury on the conditions that the Customer:

- (a) warrants that all information provided to Bambury by the Customer in relation to this Credit Application and all information contained in this Credit Application is true and complete and acknowledges that Bambury relies on the information in making a decision whether or not to grant a Credit Account;
- (b) acknowledges that this is a Credit Application and Bambury may accept or refuse this application at its sole discretion. The Customer will be notified of a successful application and of the limit of available credit by a notice in writing from Bambury;
- (c) expressly acknowledges that the Customer has received, read and accepts Bambury's Trading Terms and Conditions ("Trading Terms") ATTACHED and as varied in accordance with its terms;
- (d) agrees that the Trading Terms, as varied in accordance with its terms, forms part of the Agreement with Bambury and governs all goods the Customer purchases from Bambury;
- (e) understands, for the avoidance of doubt, that if the Customer's Credit Account is approved and the Customer purchases goods from Bambury, Bambury may at its sole discretion require:
  - (i) as security for the Customer's obligations and liabilities under the Agreement, the Customer charges for the due and punctual payment and performance of those obligations and liabilities, all of the Customer's legal and equitable interest (both present and future) of whatsoever nature held in any and all real property;
  - (ii) without limiting the generality of the charge in this clause, the Customer agrees, on Bambury's request to execute any documents and do all things necessary required by Bambury to register a mortgage security or other instrument of security over any real property and against the event that the Customer fails to do so within a reasonable time of being so requested the Customer irrevocably and by way of security, appoints any credit manager or solicitor engaged by Bambury to be the Customer's true and lawful attorney to execute and register such instruments;
  - (iii) the Customer will indemnify Bambury on an indemnity basis against all costs and expenses incurred by Bambury in connection with the preparation and registration of any such charge and mortgage documents; and
  - (iv) the Customer also consents unconditionally to Bambury lodging a caveat or caveats noting Bambury's interest in any of the Customer's real property;
- (f) agrees that unless otherwise defined, terms in this Credit Application have the same meaning as set out in Bambury's Trading Terms;
- (g) warrants that the Customer and each director, partner, individual, sole trader stated in this Credit Application is solvent and can pay its respective debts as and when due and that no steps have been taken to place any of them into bankruptcy, voluntary administration, liquidation, receivership or management; and
- (h) warrants that the person who signs this Credit Application is authorised to do so on behalf of the Customer and hereby binds the Customer.

## 2. Privacy

2.1 By signing this Credit Application, the Customer consents to and authorises Bambury:

- (a) to obtain any information about any of the Customer's consumer or commercial credit or business history or the Customer's commercial activities or commercial credit worthiness from the Customer's bank or any trade referee disclosed in this Credit Application and any other credit provider or credit reporting agency for the purposes of assessing the application for credit, or in connection with any guarantee and to disclose such information to a credit reporting agency;
- (b) to give to a person who is currently a guarantor, or whom the Customer has indicated is considering becoming a guarantor, a credit report containing information about the Customer for the purpose of the Guarantor deciding whether to act as guarantor, or to keep the Guarantor informed about the guarantee. The Customer understands Bambury may disclose any information about the Customer's credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to disclose under the Privacy Act;
- (c) unless otherwise prevented by law to collect from, store, use, disclose to or exchange with any of the parties named in clause 2.1 (a) above or any Guarantors or other credit providers named in this Credit Application or named in a consumer credit report issued by a credit reporting agency, third party providers, solicitors, mercantile agents, insolvency administrators, insurers and insurance brokers, persons involved with the collection of trade bills or the factoring of trade debt, information about the Customer's personal or commercial credit worthiness or business history in order to assess the Credit Application (including whether to accept as Guarantor any person signing), monitor the credit worthiness or withdraw credit facilities, notify of the Customer's default, issue trade bills, insure risk, process any payment instructions, direct debit facilities and or credit facilities requested by the Customer and or Guarantor/s to enable the daily operation of the Customer's Credit Account and collect overdue accounts; and
- (d) to the extent permitted by law, to disclose the contents of a credit report by a credit reporting agency to Bambury's solicitors or mercantile agents.

2.2 Unless otherwise prevented by law, the Customer consents to the use and storing of any personal information provided for the following purpose and any other purposes as shall be agreed between Bambury and the Customer from time to time:

- (a) the sale of Goods by Bambury;
- (b) the marketing of Goods by Bambury or Bambury's agents, affiliated companies or contractors.

### **ACKNOWLEDGEMENT AND ACCEPTANCE OF TRADING TERMS:**

**BY SIGNING THIS CREDIT APPLICATION YOU ACKNOWLEDGE THAT YOU HAVE READ AND ACCEPTED BAMBURY'S TRADING TERMS (ATTACHED). IT IS ESSENTIAL THAT THIS CREDIT APPLICATION BE SIGNED BY A DULY AUTHORISED REPRESENTATIVE OF YOUR ORGANISATION TO ALLOW THE APPLICATION TO BE PROCESSED. WE RESERVE THE RIGHT TO REQUEST WRITTEN EVIDENCE OF AUTHORISATION (THOSE NOT APPLYING FOR CREDIT ARE REQUIRED TO SIGN OUR TRADING TERMS). PLEASE NOTE THAT ALL APPLICANTS COMPLETING A CREDIT APPLICATION/NEW ACCOUNT FORM ARE DEEMED TO HAVE ACCEPTED THE TRADING TERMS.**

Signed on behalf of the Applicant by (Please tick):

DIRECTORS

PARTNERS

SOLE TRADER

AUTHORISED OFFICER

Signature

Print Name and Title

Signature

Print Name and Title

Signature

Print Name and Title

**Guarantee Indemnity and Charge ("Guarantee")**

(This Guarantee Indemnity and Charge relates to Bambury's Sale of Goods from time to time to the Customer)

At the request of the Customer named in the Credit Application and in consideration of Bambury granting a Credit Account to the Customer the person/s who have signed this Guarantee ("**Guarantor**") do hereby jointly and severally agree:

1. The Guarantor unconditionally and irrevocably guarantee to Bambury the due and punctual payment by the Customer to Bambury of all monies at any time actually or contingently owing to Bambury by the Customer either alone or jointly or severally with others on any account (the "Guaranteed Monies"), including without limitation, by way of:
  - (a) monies payable for goods sold, or to be sold by Bambury to the Customer;
  - (b) interest;
  - (c) costs and charges; and
  - (d) indemnity or damages.
2. If the Customer defaults in payment of the Guaranteed Monies, the Guarantor shall pay those monies on demand, by way of currency, to or as directed by Bambury in order to discharge the debt owed by the Customer in full.
3. This Guarantee, Indemnity and Charge shall constitute a continuing guarantee and indemnity to Bambury for all Guaranteed Monies which are now or may from time to time be owing or remain unpaid.
4. The Guarantor's obligations under this Guarantee are primary obligations and are not ancillary or collateral to any other right or obligation. The Guarantor's obligations may be enforced against the Guarantor without Bambury being required to take any action against the Customer whether by making a demand or under any security it may hold for the Guaranteed Monies.
5. The liability of the Guarantor under this Guarantee is absolute and unconditional and it shall not be avoided, released or affected by anything at all.
6. Until Bambury has received all monies due from the Guarantor to Bambury under this Guarantee, the Guarantor agrees:
  - (a) in the event of any liquidation, provisional liquidation, receivership, voluntary administration, deed of company arrangement, scheme of arrangement or other administration in insolvency of the Customer, that the Guarantor will not without Bambury's prior consent lodge any proof of debt or similar claim for any debt or liability to the Guarantor on any account whatsoever, nor enforce any security held by the Guarantor in respect of the Customer and shall hold any such debt, liability or security and any rights or benefits in respect thereof on trust for Bambury;
  - (b) on Bambury's request, to lodge a proof of debt or similar claim in any such Administration and enforce any such security and to execute all such documents and do all such things as Bambury may require to enable Bambury to have and receive the benefit of or arising from any such proof, claim or security;
  - (c) not to attempt or purport to be surrogated to Bambury;
  - (d) to waive all rights as surety which are inconsistent with this Guarantee; and
  - (e) that the Guarantor's liability under this Guarantee shall be that of principal debtor.
7. The Guarantor unconditionally and irrevocably guarantees to Bambury the due and punctual performance by the Customer of Bambury's Trading Terms.
8. The Guarantor/s agree to indemnify Bambury against any losses, costs, charges or expenses of any nature (including Bambury's solicitors' costs and disbursements on an indemnity basis of any litigation, arbitration or other alternative dispute resolution process between Bambury and the Customer or any Guarantor, or any commission paid or payable by Bambury to any commercial or mercantile agent) which it has incurred or incurs in the future:
  - (a) as a result of the Customer's breach of any of the terms and conditions of the Credit Application or Trading Terms; or
  - (b) otherwise arising out of the business relationship between the Customer and Bambury; or
  - (c) in connection with the preparation, enforcement or discharge of this Guarantee; or
  - (d) otherwise arising under or in connection with this Guarantee.

9. For the consideration mentioned above, the Guarantor unconditionally and irrevocably indemnifies Bambury against any loss or liability which they may suffer because the whole or any part of the Guaranteed Monies are not recoverable from the Customer, and not recoverable from any Guarantor as surety, because of any default by the Customer in the performance and observance by the Customer of Bambury's Trading Terms, by reason of the Customer's insolvency or bankruptcy or by reason of the contract between the Customer and Bambury being void, voidable or unenforceable for any reason whatever, whether or not the circumstances were known to Bambury.

10. The Guarantor agrees to notify Bambury in writing of any change to details set out in this Guarantee within 5 days from the date of such change.

11. Bambury may at its sole discretion require:
  - (i) as security for the Guarantor's obligations and liabilities under the Agreement, the Guarantor charges for the due and punctual payment and performance of those obligations and liabilities, all of the Guarantor's legal and equitable interest (both present and future) of whatsoever nature held in any and all real property;
  - (ii) without limiting the generality of the charge in this clause, the Guarantor agrees, on Bambury's request, to execute any documents and do all things necessary required by Bambury to register a mortgage security or other instrument of security over any real property and against the event that the Guarantor fails to do so within a reasonable time of being so requested, the Guarantor irrevocably and by way of security, appoints any credit manager or solicitor engaged by Bambury to be the Guarantor's true and lawful attorney to execute and register such instruments;
  - (iii) the Guarantor will indemnify Bambury on an indemnity basis against all costs and expenses incurred by Bambury in connection with the preparation and registration of any such charge and mortgage documents; and
  - (iv) the Guarantor also consents unconditionally to Bambury lodging a caveat or caveats noting Bambury's interest in any of the Guarantor's real property.

12. By signing this Guarantee, the Guarantor consents to and authorises Bambury:
  - (a) to obtain from a credit reporting agency a consumer credit report containing information for the purpose of assessing whether to accept the Guarantor as a guarantor for credit applied for by, or provided to, the Customer – until the credit covered by the Customer's application ceases;
  - (b) unless otherwise prevented by law, to obtain any information about any of the Guarantor's consumer or commercial credit or business history or its commercial activities or commercial credit worthiness from its bank or any other credit provider for the purposes of assessing whether to accept me/us as a Guarantor for credit applied for by, or provided to, the Customer and to disclose information to a credit reporting agency;
  - (c) unless otherwise prevented by law, to collect from, store, use, disclose to or exchange with any of the parties named in clause (a) above or other credit providers, third party provider, solicitors, mercantile agents, insolvency administrators, insurers and insurance brokers, persons involved in the collection of trade debt, information about Guarantor/s personal or commercial worthiness or business history in order to assess the Credit Application (including whether to accept the Guarantor), monitor the credit worthiness or withdrawing credit facilities, notification of the Guarantor default, issues trade bills, insure risk processing any payment instructions, direct debit facilities and/or credit facilities requested by the Customer and/or Guarantor and enable the daily operation of the Customer's credit account and collect overdue accounts; and
  - (d) to the extent permitted by law, to disclose the contents of a credit report by a credit reporting agency to Bambury's solicitors or mercantile agents.
13. The Guarantor acknowledges that any capitalised terms used in this Guarantee shall have the same meaning as in the Trading Terms unless otherwise defined.

**LEGAL ADVICE**

**Each Guarantor acknowledges that:**

- (a) The Guarantor has either:
  - (i) sought advice if necessary as to the purport, effect and consequences of and obligations created by this Guarantee from a solicitor independent of Bambury; or
  - (ii) having had the opportunity to seek such advice, determined such advice was not necessary and that it understood the effect and consequences of and obligations created by this Guarantee before executing this Guarantee; and
- (b) it enters into this Guarantee freely after considering such advice or electing not to obtain such advice.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ Year

Signed by Guarantor

Name of Guarantor

Signature of Guarantor

In the presence of

Name of Witness

Signature of Witness

Name of Guarantor

Signature of Guarantor

Name of Witness

Signature of Witness

**BAMBURY PTY LTD (ACN 065 811 949) AS TRUSTEE FOR THE LODGE  
FAMILY TRUST ("BAMBURY")  
TRADING TERMS & CONDITIONS ("TRADING TERMS")**

These Trading Terms, together with:

- (a) Any Credit Application completed by the Customer and submitted to Bambury and accepted by Bambury; and
- (b) Any Guarantee completed by the Customer and submitted to Bambury.
- (c) Any Order/s submitted to Bambury by the Customer and accepted by Bambury

make up to agreement between the Customer and Bambury for the sale and purchase of goods ("Agreement"). By accepting goods from Bambury the Customer agrees to be bound by these Trading Terms (as amended from time to time).

Amendment: These Trading Terms may be amended by Bambury from time to time by Bambury giving notice of the amendment to the Customer. Notice is deemed given (whether or not actually received) when Bambury does any of the following: (a) sends notice of the amendment to the Customer at any address (including an email address) supplied by the Customer, or (b) publishes the most recent version of the amended terms on Bambury's website [www.bambury.com.au](http://www.bambury.com.au). The Customer's continued acceptance of goods after notice of the amended terms has been given will be deemed an acceptance of the amended terms by the Customer.

## 1. INTERPRETATION

**"Bambury"** means Bambury Pty Ltd (ACN 065 811 949) atf the Lodge Family Trust and it's authorised agents, successors and assigns.

**"Commencement"** the date when the Customer takes possession of the goods.

**"Credit Account"** means a credit account granted to the Customer by Bambury for the purchase of goods.

**"Credit Application"** means a properly completed Credit Application (where the Customer is not applying for client) or a New Account Form by the Customer.

**"Customer"** refers to the person, firm, organisation, partnership, corporation, trust or other entity who purchases goods from Bambury as named in the Credit Application or an Order (where the Customer does not hold a Credit Account) and includes any employees, agents and contractors and permitted assigns of the Customer

**"goods"** means all goods supplied from Bambury to the Customer from time to time.

**"GST"** has the same meaning as in A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**"Intellectual Property Rights"** means all intellectual property rights including, without limitation, all patents, copyrights, trade and service marks, logos, designs, circuit layouts, trade secrets and confidential information whether registered or not and any rights relating to any of them.

**"List Prices"** means the prices from time to time for particular goods contained on the website at [www.bambury.com.au](http://www.bambury.com.au).

**"Orders"** means orders for goods placed by the Customer by way of either email, telephone, via an agent, facsimile or through the Bambury website and accepted by Bambury in accordance with these Trading Terms.

## 2. PRICING, ORDERING & DELIVERY

2.1 The Customer acknowledges that once Orders have been accepted and processed by Bambury they cannot be withdrawn or amended.

2.2 Unless the Customer otherwise notifies Bambury in writing to the contrary, the Customer acknowledges and agrees that Orders placed by any of its employees shall be valid and binding on the Customer.

2.3 All prices are quoted exclusive of any prevailing goods and services tax (GST) that may be applicable.

2.4 All prices are quoted inclusive of delivery-into-capital city. Customers outside capital city zones will need to nominate their preferred on-forward transport carrier to avoid freight charges on each order.

2.5 If the Customer has not nominated a preferred on-forward transport carrier, the Customer shall be responsible for all freight charges calculated for each order for goods based on the volume of the order.

2.6 List prices are subject to change without notice.

2.7 Broken carton pricing may be applied when less than a carton of a specific product is order.

2.8 Orders under \$300 will incur a \$20 delivery fee.

2.9 Goods will be delivered to the address for the Customer nominated in the Credit Application or otherwise as advised by the Customer in writing. Delivery dates will be as advised by Bambury. Bambury takes no responsibility for delivery to an incorrect address provided by the Customer.

## 3. PAYMENT

3.1 Bambury will issue an invoice to the Customer in respect of each supply of goods.

3.2 Each invoice is payable within the period nominated on the invoice. The Customer acknowledges and agrees that payment terms may differ from invoice to invoice.

3.3 All invoices must be paid in full without set-off or deduction. Any dispute concerning an invoice must be raised by the Customer within 2 days of receipt of the invoice otherwise the invoice is deemed accepted in its entirety by the Customer. Any undisputed amount must be paid.

3.4 Should the Customer default in payment of any monies due under this Agreement then all monies due to Bambury shall immediately become due and payable and Bambury shall be entitled to charge interest at a simple daily rate equivalent to the prevailing Westpac Banking Corporation business overdraft rate plus 2%, on all due accounts from the date until the date of actual payment. Bambury will be entitled to recover and the Customer agrees to pay all and any costs associated with the recovery of overdue accounts including collection commissions payable to debt collection agencies and solicitor-client/indemnity costs incurred by Bambury.

## 4. TITLE

4.1 Title to the goods shall remain with Bambury and title does not pass to the Customer until all monies due and owing from the Customer to Bambury has been received in full by Bambury.

4.2 Subject to these Trading Terms, until title passes to the Customer and without prejudice to Bambury's rights, the Customer must not encumber or otherwise charge the goods in any way and possesses the goods as bailee only.

4.3 Notwithstanding the foregoing, the Customer may sell the goods to any third party only in the normal course of business provided the Customer retains the proceeds of such sales in trust for Bambury and otherwise adheres to these Trading Terms.

## 5. DEFAULT AND REPOSSESSION

5.1 The Customer acknowledges and agrees that. If:

- (i) the Customer commits any act of Bankruptcy;
- (ii) the Customer goes into liquidation;
- (iii) a petition for the sequestration of the Customer's estate or for the winding up of the Customer;
- (iv) the Customer assigning its property for the benefit of creditors or having an official receiver or manager appointed;
- (v) the Customer failing to make a payment to Bambury when due; or
- (vi) the Customer breaches a material clause of the Agreement including (without limitation) clauses 3.8, 6.2, 6.3 and 6.5 of these Trading Terms, then Bambury may do any or all of the following:
  - (vii) Terminate the Agreement;
  - (viii) enter the premises where the goods are stored and repossess them, or demand the Customer deliver them to Bambury;
  - (ix) decline to deliver the goods or any balance of the goods still due;
  - (x) stop goods in transit;
  - (xi) cease to perform its obligations under the Agreement;
  - (xii) sell the goods by public auction or private sale on any terms and apply the proceeds after deductions of expenses towards the reduction of all money due and owing by the Customer.

5.2 The Customer shall indemnify Bambury against any claim for damages, liability, cost, expense which Bambury incurs or becomes liable for in respect to the exercise of Bambury's rights under this clause 5.

5.3 The Customer accepts all risk of loss or damage to the goods, whether caused by the Customer or not, as from the delivery of the goods to the Customer and shall from that time assume responsibility of insuring the goods for their full price.

5.4 In addition to any other rights of indemnity Bambury may have under this Agreement the Customer agrees to indemnify Bambury against all loss, damages, costs and expenses suffered by Bambury as a result of a breach of this Agreement by the Customer including the inability of the Customer to deliver up possession of the goods or account for the proceeds of dealing with the goods in accordance with this clause 5.

## 6. OTHER

6.1 Force Majeure: Bambury shall be entitled to delay or cancel delivery or reduce the amount of goods delivered if it is prevented from or hindered or delayed in manufacturing, obtaining or delivering the goods by normal rout or means through any circumstances beyond its control including but not limited to acts of God, war, terrorism, mobilisation, civil commotion, riots, embargoes, orders or regulations of governments of any relevant jurisdiction, fires, floods, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or land transportation

6.2 Change of ownership – Registered Particulars: The Customer shall not later than 5 days prior to any proposed changes of ownership, change in Registered Particulars, alteration, addition to the shareholding or directorship, notify Bambury of its proposed change and the Customer shall notify Bambury of any change, alteration or addition to the Customer's internal structure and shall provide full details of the propose change, alteration or addition, to Bambury and the Customer shall be liable for any goods supplied by Bambury after such change, alteration or addition unless Bambury shall have acknowledge by written acceptance of the intending change, alteration or addition.

6.3 Assignment: The Customer must not assign any of its rights or obligations under the Agreement without prior written consent from Bambury.

6.4 Governing Laws: This Agreement is governed by and must be construed according to the laws of Western Australia. Bambury and the Customer each agree to submit to the non-exclusive jurisdiction of the courts of or exercising jurisdiction in Western Australia.

6.5 Intellectual Property: Nothing in this Agreement constitutes a transfer of any Intellectual Property Rights. The Customer must not do anything that would or might invalidate or put in dispute Bambury's Intellectual Property Rights including trademarks and logos associated with the goods whether by act or omission, misrepresentation, passing-off or otherwise.

6.6 Disputes: subject to these Trading Terms, in the event of a dispute arising from this Agreement the disputing party agrees to issue a written notice to the other party outlining the dispute ("Dispute Notice"). The parties then agree to meet and act in good faith in an attempt to resolve the dispute. If the dispute cannot be resolved within 10 business days of receipt of the Dispute Notice or as otherwise agreed by the parties then either party may seek the assistance of a relevant court or authority to resolve the dispute. Nothing in this clause 6.6 is intended to prevent a party from seeking urgent interlocutory relief.

6.7 Waiver: No delay or omission by Bambury to exercise any right, power or remedy available to it as a result of a continuing breach or default under the Agreement will impair any such right, power or remedy, nor will it be construed to be a waiver of Bambury's rights to take action or make a claim in respect of a continuing breach or default by the Customer.

## 7. RETURN OF GOODS POLICY (CLAIMS)

7.1 Bambury will always use its best efforts to deliver to the Customer goods fit for purpose and in sound condition. However if the Customer believes that the goods do not meet their intended standard the Customer must notify the Bambury sales department (1300 766 762) within 7 days of delivery of goods. In such circumstances Bambury may at its discretion do one of the following:

(a) Negotiate an agreed discount for the faulty or damaged goods in which case Bambury may then issue an adjustment note to the customer reflecting the agreed discount.

(b) Bambury may recommend disposal of goods in which case Bambury may issue a reference Disposal Authority Number for the disposal and an Adjustment Note for the price paid for the goods.

(c) Bambury may direct that the goods be returned to Bambury's head office according to Bambury's transport instructions and at Bambury's cost in which case Bambury may issue a reference Return Authority Number (to accompany the return of the goods). An Adjustment Note may then be issued once the goods have been inspected and assessed by Bambury or its representing agent and it can be clearly proven that the fault has occurred due to poor workmanship during manufacture and/or the damage has occurred during any storage or transit for which Bambury has been responsible. Notwithstanding the above Return of Goods Policy, it must not be presumed by the Customer that refunds or discounts that the Customer may decide to give to its Customer for fault or damaged goods sold, will be automatically recoverable from Bambury.

7.2 Notwithstanding anything to the contrary contained in these Trading Terms, to the full extent permitted by law, Bambury expressly excludes all warranties, conditions, representations, whether express or implied relating to the goods except for those expressly provided in these Trading Terms.

7.3 Notwithstanding any other provisions of these Trading Terms and to the fullest extent permitted by law, Bambury's maximum liability is limited to the replacement or repair of goods or payment for the replacement or repair of goods to the Customer.

## 8. PERSONAL PROPERTY SECURITIES ACT

8.1 In this clause 8 "PPSA" means *Personal Properties Securities Act 2009* and any other legislation and regulations in respect of it and amendments to it, terms used in this clause shall have the same meaning as given in the PPSA.

8.2 The Customer consents to Bambury effecting and maintaining a registration on the PPS register (in any manner Bambury considers appropriate) in relation to any security interest contemplated or constituted by this Agreement in the goods and the proceeds arising in respect of any dealing in the goods and the Customer agrees to sign any documents and provide all assistance and information to Bambury required to facilitate the registration and maintenance of any security interest. Bambury may at any time register a financing statement or financing change statement in respect of a security interest (including any purchase money security interest). The Customer waives the right to receive notice of a verification statement in relation to any registration on the register of a security interest in respect of the goods.

8.3 The Customer undertakes to:

(a) do anything (in each case, including executing any new document or providing any information) that is required by Bambury:

(i) so that Bambury may acquire and maintain one or more perfected security interests under the PPSA in respect of the goods and their proceeds;

(ii) to register a financing statement or financing change statement; and

(iii) to ensure that Bambury's security position, and rights and obligations, are not adversely affected by the PPSA;

(b) not register a financing change statement in respect of a security interest contemplated or constituted by this Agreement without Bambury's prior written consent; and

(c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the goods in favour of a third party without Bambury's prior written consent.

8.4 If Chapter 4 of the PPSA would otherwise apply to the enforcement of a security interest arising under or in connection with this Agreement and:

(a) section 115(1) of the PPSA allows for the contracting out of provisions of the PPSA, the following provisions of the PPSA will not apply and the Customer will have no rights under them: section 95 (to the extent that it requires the secured party to give notices to the grantor), section 96, section 118 (to the extent that it allows a secured party to give notices to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143; and

(b) section 115(7) of the PPSA allows for the contracting out of provisions of the PPSA, the following provisions of the PPSA will not apply and the Customer will have no rights under them: section 127; section 129(2) and (3); section 130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137.

8.5 Unless otherwise agreed and to the extent permitted by the PPSA, the Customer and Bambury agree not to disclose information of the kind referred to in section 275(1) of the PPSA to an interested person, or any other person requested by an interested person. The Customer waives any right the Customer may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of the above information.

8.6 For the purposes of section 20(2) of the PPSA, the collateral is goods including any goods provided by Bambury to the Customer from time to time. This Agreement is a security agreement for the purposes of the PPSA.

8.7 Bambury may apply amounts received in connection with this Agreement to satisfy obligations secured by a security interest contemplated or constituted by this Agreement in any way Bambury determines in Bambury's absolute discretion.