

1. Definitions

- 1.1 "GSA" means N Dummett T/A Glass Splashbacks Australia, its successors and assigns, or any person acting on behalf of, and with the authority of, N Dummett T/A Glass Splashbacks Australia.
- 1.2 "Client" means the person/s buying the Goods as specified in any quotation, order, invoice or any other document provided by GSA to the Client, and if there is more than one Client is a reference to each Client jointly and severally.
- 1.3 "Goods" means all Goods or Services supplied by GSA to the Client, at the Client's request, from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).
- 1.4 "Price" means the Price payable for the Goods, as agreed between the parties in accordance with clause 4 below.

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted, and is immediately bound, jointly and severally, by these terms and conditions, if the Client places an order for Goods, or accepts Delivery.
- 2.2 These terms and conditions may only be amended with GSA's consent in writing, and shall prevail to the extent of any inconsistency with any other document or agreement between the parties.
- 2.3 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.

3. Change in Control

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

4. Price and Payment

- 4.1 At GSA's sole discretion the Price shall be either:
 - (a) as indicated on any invoice provided by GSA to the Client; or
 - (b) GSA's quoted price (subject to clause 4.2) which will be valid for the period stated in the quotation, or otherwise for a period of thirty (30) days.
- 4.2 GSA reserves the right to change the Price:
 - (a) if a variation to the Goods which are to be supplied is requested (including any applicable designs or specifications, or where due to inaccuracies in quantities or dimensions (or other information) supplied to GSA for quotation purposes); or
 - (b) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, limitations in accessing the site, obscured/latent site defects – such as the discovery of asbestos or other hazardous material, etc.) which are only discovered on commencement of the Services; or
 - (c) in the event of increases to GSA in the cost of labour or materials, which are beyond GSA's control.
- 4.3 At GSA's sole discretion, a non-refundable deposit may be required.
- 4.4 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by GSA, which may be:
 - (a) on Delivery; or
 - (b) by way of instalments/progress payments in accordance with GSA's payment schedule; or
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice furnished to the Client by GSA.
- 4.5 Payment may be made by electronic/on-line banking, credit card (plus a surcharge of up to two percent (2%) of the transaction), or by any other method as agreed to between the parties.
- 4.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to GSA an amount equal to any GST GSA must pay for any supply of Goods by GSA under this contract, or any other, agreement. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client 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.

5. Accuracy of Client's Plans and Measurements

- 5.1 GSA shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client. The Client acknowledges and agrees that in the event:
 - (a) that any of this information provided by the Client is inaccurate, GSA accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.
 - (b) the Client gives information relating to measurements and quantities of Goods required, it is the Client's responsibility to verify the accuracy of the measurements and quantities, before the Client or GSA places an order based on these measurements and quantities. GSA accepts no responsibility for any loss, damages, or costs however resulting from the Client's failure to comply with this clause, including but not limited to, where the Client orders insufficient quantities (and GSA will take no responsibility for any variation of colour in further Goods supplied to the Client, or the inability to supply the Goods at all).

6. Delivery and Installation

- 6.1 Delivery of the Goods ("Delivery") is taken to occur at the time that GSA (or its nominated carrier) delivers the Goods to the Client's nominated site, even if the Client is not present at the site.
- 6.2 At GSA's sole discretion, the cost of Delivery is either included in the, or in addition to, the Price.
- 6.3 The Client must take Delivery, by receipt or collection of the Goods, whenever they are tendered for Delivery. In the event that the Client is unable to take Delivery, as arranged, then GSA shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 6.4 GSA may supply the Goods by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 6.5 Any time or date given by GSA to the Client is an estimate only. The Client must still accept Delivery, even if late, and GSA will not be liable for any loss or damage incurred by the Client as a result of Delivery being late.

- 6.6 Where the contract includes the installation of the Goods, the Client:
- (a) shall ensure that GSA has clear and free access to the nominated site at all times to enable them to install the Goods, and that such access is suitable to accept the weight of laden trucks or other equipment as may be deemed necessary by GSA. GSA shall not be liable for any loss or damage to the site (including, without limitation, damage to pipes, cables, shrubs, pathways, driveways and concreted or paved or grassed areas, or anything else on or near the site) during delivery, installation or any other time, unless due to the negligence of GSA; and
 - (b) warrants that the structure of the premises or equipment in or upon which the Goods are to be installed or erected is sound and will sustain the installation and Services incidental thereto, and GSA shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising should the premises or equipment be unable to accommodate the installation;
 - (c) make good all finished surfaces (including but not limited to, tiles and panels, brickwork and rendered masonry surfaces, wallpaper, etc.) which GSA make reasonably have to break into or disturb during installation of the Goods.
- 6.7 *Pool Fencing*
- (a) Industry standard maximum tolerance is 1mm curve per 200m length of glass, or part thereof (e.g. a 1400mm panel of glass has a +/-7mm tolerance); any glass that is out of tolerance will be replaced and installed free of charge.
 - (b) The Client acknowledges:
 - (i) the standard gap between the bottom of the fence and the ground after installation can vary between fifteen 15mm and 95mm (depending on how level the fence line is), unless special arrangements to the contrary have been made and previously agreed upon between the parties;
 - (ii) gap spacing for glass fences by law can be no larger than 100mm. For frameless fences GSA allows for gap spacing of approximately 50mm. For some configurations it may allow for more or less but the objective is at all times is to ensure that all gaps are of the same size however, GSA does not guarantee this spacing precisely as some variation may occur between the glass panels.
 - (c) The Client shall be responsible for:
 - (i) maintaining the pool fence as a compliant barrier and ensuring that the gate hinges and latch continue to be self-closing and self-latching by pool fence regulations;
 - (ii) having, at the Client's own cost, a licensed electrical contractor electrically earths the pool fence in accordance with Wiring Rules Standard AS/NZ 3000, if required. In general, pool fences and support structures situated closer than 1250mm to swimming pools may require connection of an equipotential bond (joining together metalwork that is or may be earthed so that it is at the same potential or voltage everywhere) which joins together all the conductive parts in and near the pool, the steel reinforcing in the shell and handrails which connects them to an earthing point.
 - (d) Although GSA complies with relevant Australian Standards for pool safety fencing, the final responsibility for swimming pool safety (including ensuring all fencing and/or barriers, and any boundary fencing that forms part of the pool fence, are pool fence compliant) in accordance with any State or Local Government regulations is the pool owners, and GSA accepts no responsibility for any accident in any pool where a safety fence has been erected.
 - (e) Where GSA attaches a post or panel to the Client's wall, it is the Client's responsibility to repair any pest control barrier.

7. Compliance with Laws

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

8. Risk

- 8.1 Risk of damage to or loss of the Goods passes to the Client on Delivery, and the Client must insure the Goods on or before Delivery.
- 8.2 If any of the Goods are damaged or destroyed following Delivery, but prior to ownership passing to the Client, GSA is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by GSA is sufficient evidence of GSA's rights to receive the insurance proceeds without the need for any person dealing with GSA to make further enquiries.
- 8.3 If the Client requests GSA to deliver the Goods to an unattended site, then such Goods shall be left at the Client's sole risk.
- 8.4 The Client acknowledges that Goods supplied may:
 - (a) exhibit variations in shade, colour, surface or finish, and may fade or change colour over time. GSA will make every effort to match sales sample to Goods supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur; and
 - (b) mark or stain if exposed to certain substances; and
 - (c) be damaged or disfigured by impact or scratching.
- 8.5 Any advice, recommendation, information, assistance or service provided by GSA in relation to Goods supplied is given in good faith, is based on GSA's own knowledge and experience and shall be accepted without liability on the part of GSA, and it shall be the responsibility of the Client to confirm the accuracy and reliability of the same in light of the use to which the Client makes or intends to make of the Goods.

9. Title

- 9.1 GSA and the Client agree that ownership of the Goods shall not pass until:
 - (a) the Client has paid GSA all amounts owing to GSA; and
 - (b) the Client has met all of its other obligations to GSA.
- 9.2 Receipt by GSA 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, and until then GSA's rights and ownership in relation to the Goods, and this contract, shall continue.
- 9.3 It is further agreed that, until ownership of the Goods passes to the Client in accordance with clause 9.1:
 - (a) the Client is only a Bailee of the Goods, and must return the Goods to GSA on request.
 - (b) the Client holds the benefit of the Client's insurance of the Goods on trust for GSA, and must pay to GSA the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.

- (c) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for GSA and must pay or deliver the proceeds to GSA on demand.
- (d) the Client should not convert or process the Goods or intermix them with other goods, but if the Client does so then the Client holds the resulting product on trust for the benefit of GSA and must sell, dispose of or return the resulting product to GSA as it so directs.
- (e) the Client irrevocably authorises GSA to enter any premises where GSA believes the Goods are kept and recover possession of the Goods.
- (f) GSA may recover possession of any Goods in transit, whether or not Delivery has occurred.
- (g) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of GSA.
- (h) GSA may commence proceedings to recover the Price, notwithstanding that ownership of the Goods has not passed to the Client.

10. Personal Property Securities Act 2009 (“PPSA”)

- 10.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 10.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods, and/or any monetary obligation of the Client to GSA for the provision of Services, that have previously been supplied (if any), and that will be supplied in the future, by GSA to the Client.
- 10.3 The Client undertakes to:
 - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which GSA 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 10.3(a)(i) or 10.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, GSA 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 registration made thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of GSA;
 - (d) 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 the prior written consent of GSA;
 - (e) immediately advise GSA 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.
- 10.4 The parties agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 10.5 The Client waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 10.6 The Client waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 10.7 Unless otherwise agreed to in writing by GSA, the Client waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- 10.8 The Client must unconditionally ratify any actions taken by GSA under clauses 10.3 to 10.5.
- 10.9 Subject to any express provisions to the contrary (including those contained in this clause 10), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

11. Security and Charge

- 11.1 In consideration of GSA agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 11.2 The Client indemnifies GSA from and against all GSA's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising GSA's rights under this clause.
- 11.3 The Client irrevocably appoints GSA (and each director of GSA) as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Client's behalf.

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

- 12.1 The Client must inspect the Goods on Delivery and must, within forty-eight (48) hours of such time, notify GSA in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow GSA to inspect the Goods.
- 12.2 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”).
- 12.3 GSA acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 12.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, GSA makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. GSA's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 12.5 If the Client is a consumer within the meaning of the CCA, GSA's liability is limited to the extent permitted by section 64A of Schedule 2.
- 12.6 If GSA is required to replace the Goods under this clause or the CCA, but is unable to do so, GSA may refund any money the Client has paid for the Goods.
- 12.7 If the Client is not a consumer within the meaning of the CCA, GSA's liability for any defect or damage in the Goods is:
 - (a) limited to the value of any express warranty, or warranty card, provided to the Client by GSA (at GSA's sole discretion);
 - (b) limited to any warranty to which GSA is entitled, if GSA did not manufacture the Goods;

- (c) otherwise negated absolutely.
- 12.8 Subject to this clause 12, returns will only be accepted provided that:
- (a) the Client has complied with the provisions of clause 12.1; and
 - (b) GSA has agreed that the Goods are defective; and
 - (c) the Goods are returned within a reasonable time at the Client's cost (if that cost is not significant); and
 - (d) the Goods are returned in as close a condition to that in which they were delivered as is possible.
- 12.9 Notwithstanding clauses 12.1 to 12.8 but subject to the CCA, GSA shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- (a) the Client failing to properly maintain or store the Goods;
 - (b) the Client using the Goods for any purpose other than that for which they were designed;
 - (c) the Client continuing the use of the Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) the Client failing to follow any instructions or guidelines provided by GSA;
 - (e) fair wear and tear, any accident, or act of God.
- 12.10 In the case of second-hand Goods, unless the Client is a consumer under the CCA, the Client acknowledges that it has had full opportunity to inspect the Goods prior to Delivery, and accepts them with all faults, and that (to the extent permitted by law) no warranty is given by GSA as to the quality or suitability for any purpose, and any implied warranty, statutory or otherwise, is expressly excluded. The Client acknowledges and agrees that GSA has agreed to supply the Client with the Goods, and calculated the Price, in reliance of this clause 12.10.
- 12.11 Notwithstanding anything contained in this clause if GSA is required by a law to accept a return then GSA will only accept a return on the conditions imposed by that law.

13. Intellectual Property

- 13.1 Where GSA has designed, drawn or developed Goods for the Client, then the copyright in any designs and drawings and documents shall remain the property of GSA.
- 13.2 The Client warrants that all designs, specifications or instructions given to GSA will not cause GSA to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify GSA against any action taken by a third party against GSA in respect of any such infringement.
- 13.3 The Client agrees that GSA may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which GSA has created for the Client.

14. Default and Consequences of Default

- 14.1 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 GSA's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 14.2 If the Client owes GSA any money, the Client shall indemnify GSA from and against all costs and disbursements incurred by GSA in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, GSA's contract default fee, and bank dishonour fees).
- 14.3 Further to any other rights or remedies GSA may have under this contract, if the Client has made payment to GSA by credit card, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by GSA under this clause 14 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this contract.
- 14.4 Without prejudice to any other remedies GSA may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions GSA may suspend or terminate the supply of Goods to the Client. GSA will not be liable to the Client for any loss or damage the Client suffers because GSA has exercised its rights under this clause.
- 14.5 Without prejudice to GSA's other remedies at law, GSA shall be entitled to cancel all, or any part, of any order of the Client which remains unfulfilled, and all amounts owing to GSA shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to GSA becomes overdue, or in GSA's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

15. Cancellation

- 15.1 GSA may cancel any contract to which these terms and conditions apply, or cancel Delivery at any time before the Goods are delivered, by giving written notice to the Client. On giving such notice GSA shall repay to the Client any money paid by the Client for the Goods. GSA shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 15.2 In the event that the Client cancels this contract, or Delivery, the Client shall be liable for any and all loss incurred (whether direct or indirect) by GSA as a direct result of the cancellation (including, but not limited to, any loss of profits). Cancellation of orders for Goods made or procured to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

16. Privacy Act 1988

- 16.1 The Client agrees for GSA to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by GSA.
- 16.2 The Client agrees that GSA may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Client; and/or
 - (b) to notify other credit providers of a default by the Client; and/or

- (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
- (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- 16.3 The Client consents to GSA being given a consumer credit report to collect overdue payment on commercial credit.
- 16.4 The Client agrees that personal credit information provided may be used and retained by GSA for the following purposes (and for other agreed purposes or required by):
- (a) the supply of Goods; and/or
- (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the supply of Goods; and/or
- (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
- (d) enabling the collection of amounts outstanding in relation to the Goods.
- 16.5 GSA may give information about the Client to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
- (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 16.6 The information given to the CRB may include:
- (a) personal information as outlined in 16.1 above;
- (b) name of the credit provider and that GSA is a current credit provider to the Client;
- (c) whether the credit provider is a licensee;
- (d) type of consumer credit;
- (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
- (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and GSA has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
- (g) information that, in the opinion of GSA, the Client has committed a serious credit infringement;
- (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 16.7 The Client shall have the right to request (by e-mail) from GSA:
- (a) a copy of the information about the Client retained by GSA and the right to request that GSA correct any incorrect information; and
- (b) that GSA does not disclose any personal information about the Client for the purpose of direct marketing.
- 16.8 GSA will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this contract or is required to be maintained and/or stored in accordance with the law.
- 16.9 The Client can make a privacy complaint by contacting GSA via e-mail. GSA will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.
- 17. Building and Construction Industry Security of Payment Act 2002**
- 17.1 At GSA's sole discretion, if there are any disputes or claims for unpaid Goods then the provisions of the Building and Construction Industry Security of Payment Act 2002 may apply.
- 17.2 Nothing in this contract 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.
- 18. Unpaid Seller's Rights**
- 18.1 Where the Client has left any item/s with GSA for repair, modification, exchange, or for GSA to perform any other service in relation to the item/s, and GSA has not received or been tendered the whole of any moneys owing to it by the Client, GSA shall have, until all moneys owing to GSA are paid:
- (a) a lien on the item/s; and
- (b) the right to retain or sell the item/s, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.
- 18.2 The lien of GSA shall continue despite the commencement of proceedings, or judgment for any moneys owing to GSA having been obtained against the Client.
- 19. General**
- 19.1 The failure by GSA to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect GSA's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 19.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the Victoria, the State in which GSA has its principal place of business, and are subject to the jurisdiction of the courts in that State.
- 19.3 Subject to clause 12, GSA shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by GSA of these terms and conditions (alternatively GSA's liability shall be limited to damages which under no circumstances shall exceed the Price).
- 19.4 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by GSA nor to withhold payment of any invoice because part of that invoice is in dispute.
- 19.5 GSA may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 19.6 The Client agrees that GSA may amend these terms and conditions at any time. If GSA makes a change to these terms and conditions, then that change will take effect from the date on which GSA notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for GSA to supply Goods to the Client.

Glass Splashbacks Australia – Terms and Conditions of Trade

- 19.7 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.
- 19.8 The Client warrants that it has the power to enter into this contract and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this contract creates binding and valid legal obligations on it.