



South Australian Integrated
Land Information System

Credit Terms and Conditions

CREDIT TERMS AND CONDITIONS

1. GENERAL

1.1. These terms and conditions (**Credit and Account Terms**) regulate the provision of credit by Land Services SA Operating Pty Ltd (ACN 618 229 815) as trustee for the Land Services SA Operating Trust, as principal and, to the extent that it provides any Goods or Services as delegate or agent of the Crown in Right of the State of South Australia (**State**), in its capacity as delegate or agent (as the case may be) of the State (**LSSA**) to the Customer in connection with the supply of Goods and/or Services under any LSSA Agreement. These Credit and Account Terms are expressly incorporated into, and should be read in conjunction with, the applicable LSSA Agreement.

2. PROVISION OF CREDIT

2.1 The Customer acknowledges that:

- (a) by signing an Application, the Customer is applying for credit from LSSA on these Credit and Account Terms for an amount up to the Available Credit;
- (b) signing an Application does not give the Customer any entitlement to the extension of any credit unless, in LSSA's sole and absolute discretion, LSSA has provided written notice to the Customer:
 - (i) agreeing to extend credit to the Customer; and
 - (ii) informing the Customer of the amount of the Available Credit; and
- (c) the extension of credit does not in any way derogate from, alter or limit the Customer's obligations to make payments to LSSA in accordance with the payment terms set out in any LSSA Agreement.

2.2 The extension of credit by LSSA to the Customer does not in any way prevent LSSA from being able to refuse to supply any further Goods and/or Services to the Customer for any reason (including for any reason set out in the applicable LSSA Agreement) including, if applicable, where directed by the State.

2.3 Without limiting clause 2.2, the Customer acknowledges that LSSA may, in its sole and absolute discretion and without giving reasons, reduce the Available Credit to the level of the Outstanding Balance (or such other amount greater than the Outstanding Balance determined by LSSA) and require that the provision of any further Goods and/or Services provided by LSSA are subject to prepayment or cash on delivery or performance.

2.4 The Customer agrees that it must pay, without any deduction or setoff, the price charged by LSSA for the Goods or Services supplied to the Customer in accordance with any payment terms set out in the LSSA Agreements.

2.5 If the Customer fails to comply with these Credit and Account Terms or the applicable LSSA Agreements in all respects (including any obligation to pay LSSA monies on any account), or otherwise an Insolvency Event occurs in respect of the Customer or any Guarantor, then LSSA may cease providing access to any Goods and/or Services and otherwise all moneys outstanding under these Credit and Account Terms or the applicable LSSA Agreements, together with all accrued interest, by the Customer on any account to LSSA, will immediately become due and payable.

3. OVERDUE ACCOUNTS

3.1. Any amount not paid by the Customer by the applicable due date will incur interest at a rate of 2% above the Reserve Bank of Australia Cash Rate calculated and compounded daily.

3.2. The Customer agrees to pay all costs and expenses (including legal costs, commissions paid by LSSA to any commercial or mercantile agent and dishonour fees) incurred by LSSA in connection with the recovery of overdue amounts.



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4. WARRANTIES

4.1 The Customer and each Applicant signing an Application represents and confirms the following:

- (a) all sections of an Application are to be read together as the one document, instrument and agreement, but invalidity or unenforceability of any clause, section or part of any shall not affect the remainder;
- (b) the signature or initialling by any person in any capacity in any of the sections of an Application shall (unless expressly indorsed to the contrary) be taken as execution of the whole Application by that person in all capacities in all sections and all places that person should, could or might have executed, signed or initialled;
- (c) neither LSSA nor the State provides legal advice in respect to this Application or any of the LSSA Agreements and, if a Customer has a question about its legal rights or obligations it should seek its own independent legal advice;
- (d) credit is provided to the Customer solely for the purpose of purchasing Goods and/or Services from LSSA pursuant to the LSSA Agreements and otherwise not for personal, domestic or household use;
- (e) the Customer and each Applicant warrant that all information set out in, or provided in connection with, this Application is true and correct, accurate, complete and presents a true and fair view in all respects;
- (f) that the Customer and each Applicant understands that it is an offence under the *Financial Transaction Report Act 1988* (Cth) to make a false or misleading statement;
- (g) these Credit and Account Terms are intended to:
 - (i) apply and incorporate the LSSA Agreements (whether the Customer has signed, or deemed to have accepted, such documents) and the Guarantee with respect to all past present and future contracts, dealings, occurrences and events whatsoever between the Customer and LSSA that may be directly involved (**Dealings**);
 - (ii) create an independent but concurrent obligation under these Credit and Account Terms with respect to all Dealings; and
 - (iii) establish liability of the Guarantors with respect to all Dealings;
- (h) all Dealings with LSSA by the Customer, Guarantor or any other person or entity wholly or majority owned or controlled by any of them shall be on the terms set out in the applicable LSSA Agreement (including these Credit and Account Terms and Guarantee set out in this Application) as they presently stand and as they may be amended from time to time by LSSA in the ordinary course of its business, whether or not notice of such amendment is received by the Customer or any of them. The Customer and each Guarantor shall make their own arrangements to stay abreast of any subsequent amendment to the LSSA Agreements including, prior to entry into each Dealing with LSSA, making all reasonable inquiries; and
- (i) each applicable LSSA Agreement (and these Credit and Account Terms where LSSA has agreed to extend credit to the Customer) shall govern and shall comprise the entire agreement in connection with all Dealings between LSSA and the Customer.

4.2 The Customer and each Guarantor acknowledge that they are reasonably commercially and legally aware. They warrant that each of them has a full and complete understanding of the obligations under the LSSA Agreements and has willingly signed the Application (and any applicable Guarantee) free of any misunderstanding, duress, unconscionability, undue influence or other disadvantage whatsoever. Each acknowledges that they have been requested by LSSA to seek independent legal advice and they have done all reasonable things in that regard.

5. CREDIT POLICY AND INVOICING

- 5.1 Unless set out in any LSSA Agreement, invoicing will occur on a monthly basis unless, as applicable under a specific LSSA Agreement, it is generated on demand by the Customer and otherwise in accordance with this clause 5.
- 5.2 All Customer accounts under an LSSA Agreement must be settled in full within 30 days of the invoice date.
- 5.3 Payments can be made by EFT - Funds transfer to an account nominated by LSSA (which, as at the date of this Application, is BSB 082-001A/C 365049456). All payment must include the Customer's LSG Account Number in the payment description and the Customer must also provide email confirmation of payment to debtors@landservices.com.au.
- 5.4 Failure to provide remittance advice may cause delays in processing payments which will be considered a breach of the applicable LSSA Agreement.

6. TRUST

- 6.1 If the Customer is trustee of a trust, then this clause 4.1 applies.
- 6.2 The Customer (in its own capacity and as trustee of the Trust) makes the following representations and warranties for the benefit of LSSA:
- (a) it has the power:
 - (i) to enter into the LSSA Agreements to which it is expressed to be a party;
 - (ii) to perform its obligations under the LSSA Agreements; and
 - (iii) carry out the transactions that the LSSA Agreements contemplate;
 - (iv) to own the assets, undertakings and rights both present and future of the Trust; and
 - (v) all necessary corporate and other action has been taken to authorise these things, and there is no restriction on or condition of it doing so;
 - (b) each LSSA Agreement to which it is (or is intended to be) a party is (or is capable of being and will be) entered by it as trustee of the Trust, and in the due and proper administration of the Trust;
 - (c) the Trust has been validly created and is in existence at the date of this Application;
 - (d) it has been validly appointed as trustee of the Trust;
 - (e) it is the sole trustee of the Trust;
 - (f) it has not given notice of its intention to retire as trustee of the Trust;
 - (g) no action has been taken or threatened to remove it or appoint an additional trustee of the Trust;
 - (h) the Trust has not been terminated, nor has any event for the vesting of the assets of the Trust occurred;
 - (i) no proceedings of any description have been or are likely to be commenced or threatened which could have a material adverse effect on the assets or financial position of the Trust or on its trusteeship of that trust;
 - (j) no property of the Trust has been re-settled, distributed, set aside or transferred to any other trust;
 - (k) it is to the commercial benefit of the Trust and the beneficiaries of the Trust that it enters into the LSSA Agreements to which it is expressed to be a party;
 - (l) as trustee of the Trust, it has valid rights of indemnity and exoneration against the assets of the Trust, which rights are available for the satisfaction of all liabilities and other obligations incurred by it under any LSSA Agreement;
 - (m) its right of indemnity out of, and lien over the assets of the Trust is unconditional and has not been limited, restricted, released or disposed of in any way;
 - (n) the Trust complies with all applicable laws; and
 - (o) it has complied with its obligations and duties as trustee under the Trust and at law and no one has alleged to it that it has not so complied.

7. PRIVACY

- 7.1 The Applicant acknowledges that the Personal Information supplied by the Applicant or its directors or owners (as applicable), and credit reporting information and credit eligibility information (all terms as defined under the Privacy Laws) will be collected, used, disclosed and stored by LSSA in accordance with, and at all times in compliance with, the Privacy Laws. If the Applicant or its directors or owners (as applicable) require further information regarding LSSA's Privacy Policy, please email privacy@landservices.com.au or contact the Privacy Officer on (08) 8423 5000.
- 7.2 LSSA collects and uses personal information of the Applicant to assess this Application for commercial credit, to manage accounts and, if necessary, insure LSSA's risk in respect of debts and to enable us to supply you with our Goods and/or Services. LSSA also collects and uses personal information provided with the Application and in the course of entering any LSSA Agreement in accordance with its Privacy Collection Statement located at www.landservices.com.au/privacy.
- 7.3 Without limiting clause 7.1 or 7.2, LSSA may obtain Personal Information, credit reporting information and credit eligibility information about the Applicant or its directors or owners (as applicable), in accordance with Part IIIA of the Privacy Act, to enable it to assess this Application and, if it is approved, to provide the Customer with the credit applied for by the Customer. Without this information LSSA may not be able to consider or approve the Application or provide the Customer with credit.
- 7.4 LSSA may, where permitted by, and in accordance with, Part IIIA of the Privacy Act, give information about the Applicant to:
- (a) a credit reporting body;

- (b) any service provider LSSA engages to carry out or assist its functions and activities;
- (c) the State;
- (d) third party organisations who provide platforms, databases or methods of obtaining the credit;
- (e) debt collection agencies;
- (f) its related bodies corporate (as that term is used in the Corporations Act);
- (g) regulatory bodies, government agencies, law enforcement bodies and courts;
- (h) other persons to whom LSSA is authorised or required by law to disclose information; and
- (i) other persons where the Applicant has consented to the disclosure,

for the purposes of assessing and approving the Application, providing the Customer with the credit applied for under this Application or any Goods and/or Services contemplated in an LSSA Agreement, and managing the credit.

- 7.5 LSSA may give credit reporting information and credit eligibility information about the Applicant or its directors or owners (as applicable) to a credit reporting body to obtain a credit report, and/or to allow the credit reporting body to create or maintain a credit information file containing information about the Applicant. The Applicant acknowledges and agrees that this form constitutes notice of disclosure of the Applicant's credit information or that of its directors or owners (as applicable) to a credit reporting body as required by the Privacy Act.
- 7.6 The information referred to in clause 7.5 (which may be given before, during or after the provision of credit to the Applicant) may include:
- (a) the Applicant's identity particulars;
 - (b) the fact that the Customer has applied for credit and the amount;
 - (c) the fact that LSSA is a current credit provider to the Customer;
 - (d) payments which are overdue by more than 60 days, and for which debt collection action has started;
 - (e) advice that the Applicant's payments are no longer overdue in respect of any default that has been listed;
 - (f) information that, in the opinion of LSSA, the Applicant has committed a serious credit infringement (that is, acted fraudulently or shown an intention not to comply with the Applicant's credit obligations);
 - (g) cheques drawn by the Applicant for \$100 or more which have been dishonoured more than once; and
 - (h) any other information permitted to be included in a credit information file under the Privacy Act.
- 7.7 The Applicant agrees that LSSA may obtain information about the Applicant's commercial activities or commercial credit worthiness from any business which provides information about the commercial creditworthiness of persons, for the purpose of assessing the Application and for the purpose of assisting in collection of overdue payments in respect of the credit applied for.
- 7.8 The Applicant agrees and expressly consents to LSSA exchanging information relating to the Applicant's creditworthiness with other credit providers, in accordance with Part IIIA of the Privacy Act:
- (a) to assess an application by the Customer for credit;
 - (b) to notify other credit providers of a default by the Applicant;
 - (c) to exchange information with other credit providers as to the status of the Applicant's credit arrangements where the Applicant is in default with other credit providers;
 - (d) to assess the Applicant's creditworthiness;
 - (e) the Applicant understands that the information exchanged can include anything about the Applicant's credit worthiness, credit standing, credit history or credit capacity that credit providers can exchange under the Privacy Act;
 - (f) the Applicant agrees that LSSA may obtain a consumer credit report containing information about the Applicant from a credit reporting body for the purpose of assessing any application made by the Customer for commercial credit from time to time;
 - (g) the Applicant agrees that LSSA may obtain a credit report about the Applicant from a credit reporting body for the purpose of collecting overdue payments relating to credit owed by the Customer;
 - (h) the Applicant certifies that the Applicant is authorised to make this application and provide the requested information, to agree to the terms and conditions of sale and supply above and overleaf for and on behalf of the Customer and undertake to supply further details as required by LSSA in establishing the Applicant's credentials;
 - (i) the Applicant agrees that LSSA may give to a person or corporation who is currently guarantor, or whom the Customer has indicated is considering becoming a guarantor, a credit report containing information about the Applicant, for the purpose of that person or corporation deciding whether to act as a guarantor, or in the case of a

current guarantor to keep that person or corporation informed about the guarantee. The Applicant understands that the information disclosed can include anything about the Applicant's credit worthiness, credit standing, credit history or credit capacity that credit providers can disclose under the Privacy Act and includes a credit report.

8. COMMUNICATIONS

- 8.1 In submitting an Application, a Customer is automatically subscribed to receive important communications from LSSA that may affect a Customer's profession and/or be relevant to the Goods or Services LSSA provides under an LSSA Agreement. Communications may be disseminated by LSSA or the State by posting on the SAILIS Application and/or email notifications (including Notices to Lodging Parties (NTLP) and Customer Information Bulletins (CIB).
- 8.2 A Customer may:
- unsubscribe to any communications by emailing communications@landservices.com.au; and
 - request additional users be subscribed to receive these communications by completing the online subscription form

9. LSSA TRUST CAPACITY

- 9.1. The parties acknowledge that Land Services SA Operating Pty Limited (**Relevant Trustee**) is receiving this Application as trustee for the Land Services SA Operating Trust (**Relevant Trust**). A liability arising under or in connection with these Credit and Account Terms is limited to and can be enforced against the Relevant Trustee only to the extent to which it can be satisfied out of property of the Relevant Trust out of which the Relevant Trustee is actually indemnified for the liability. This limitation of liability applies despite any other provision of these Credit and Account Terms and extends to all liabilities and obligations of the Relevant Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to these Credit and Account Terms. No party to these Credit and Account Terms may sue the Relevant Trustee in any capacity other than as trustee of the Relevant Trust. This clause shall not apply to any obligation or liability of the Relevant Trustee to the extent that it is not satisfied out of the assets of the Relevant Trust because under the trust deed establishing the Relevant Trust or by operation of law there is a reduction in the extent of the Relevant Trustee's indemnification out of the assets of the Relevant Trust as a result of the Relevant Trustee's fraud, gross negligence, breach of trust or dishonesty.

10. DEFINITIONS AND INTERPRETATION

- 10.1 In these Credit and Account Terms and Application:

Applicant means the individuals completing the Application including individual borrowers, business owners, company directors and officers, partners or trustees.

Available Credit means the amount of credit available to the Customer as advised by LSSA under clause 2.1(b) for the purchase of Goods and/or Services from LSSA (which may be a consolidated limit or separated into credit relating to LSSA providing Goods and Services in its capacity as principal or in its capacity as agent for the State) minus the Outstanding Balance.

Corporations Act means the *Corporations Act 2001* (Cth).

Credit and Account Terms has the meaning given in clause 1.1

Dealings has the meaning given in clause 4.1(g)(i).

Goods mean any goods provided by LSSA under any LSSA Agreement.

Guarantor means each person giving a guarantee by signing section 3 of the Application.

Insolvency Event means, in relation to a Party:

- a receiver, receiver and manager, administrator, trustee or similar official is appointed over the whole or a substantial part of the assets or undertaking of the Party and is not removed within 30 days;
- the Party suspends payment of its debts generally;
- the Party is insolvent within the meaning of the Corporations Act;
- the 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;
- an application (other than a vexatious application) or order is made for the winding up or dissolution of, or the appointment of a provisional liquidator to, the Party or a resolution is passed or steps are taken to pass a resolution for the winding up or dissolution of the Party otherwise than for the purpose of an amalgamation or reconstruction which has the prior written consent of the other Party and, in the case of an application, the application is not withdrawn or dismissed within 60 days;

- (f) an administrator is appointed under Division 2 of Part 5.3A of the Corporations Act and, except in the case of an appointment by the Party or its directors, is not withdrawn or removed within 14 days; or
- (g) in the case of a natural person, includes death or bankruptcy.

LSSA Agreement means, as applicable, any agreement entered into between LSSA and the Customer from time to time whether signed by the Customer or otherwise where the Customer is deemed to have accepted the terms and conditions including, without limitation, any Data Supply Agreement, API Services Agreement, SAILIS Account Application Form, SAILIS Terms of Use located at <https://sailis.lssa.com.au/home/help/display?name=Disclaimer> or general terms of purchase or supply of services.

Outstanding Balance means those amounts that remain unpaid on any account with LSSA pursuant to a LSSA Agreement and includes both credit advances and fees and charges payable under these Credit and Account Terms or a LSSA Agreement.

Party means, depending on the context, the Customer, LSSA, any Guarantor or an Applicant.

Personal Information has the meaning given to that term in the Privacy Laws and includes any other information that could be used to identify an individual, including any information that could uniquely identify a property.

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Laws means the Privacy Act and the Australian Privacy Principles under the Privacy Act.

Relevant Trust has the meaning given in clause 9.1.

Relevant Trustee has the meaning given in clause 9.1.

Services mean any services provided by LSSA under any LSSA Agreement.

Trust means the trust set out in Section 1 of this Application.

10.2 In these Credit and Account Terms and Application: A provision of these Credit and Account Terms must be read down to the extent necessary to be valid. If the Customer or Applicant comprises more than one person, each of those persons is jointly and severally liable under these Credit and Account Terms. No rule of construction applies to the disadvantage of a party because that party put forward this document or any portion of it. References to "includes" or "including" or "for example" means without limitation. The meaning of general words is not limited by specific examples introduced by including, for example or similar expressions. A reference to an agreement or document (including a reference to these Credit and Account Terms) is to the agreement or document as amended, supplemented, novated or replaced. These Credit and Account Terms are governed by the law in force in South Australia. Each party submits to the non-exclusive jurisdiction of the courts of South Australia.



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