5. Price

(a) Toro may notify the Customer of a change in price for any Product, but Toro is not under obligation to do this. In these Terms:

(b) All prices are quoted exclusive of any tax, the Customer shall pay all taxes or charges (which the Customer must pay, if applicable).

(c) Toro may provide the Customer with variations from time to time, including on the Website. These prices are merely a guide and may not apply in a particular case.

(d) Toro reserves the right to make partial deliveries.

(e) All Products are of the Customer's risk immediately they leave Toro's premises. The Customer is responsible for insuring the Products from then.

(f) Subject to any direction issued by Toro or in writing with Toro, the Customer must pay any transportation costs and associated costs (including, for example, import duties and insurance).

(g) If requested by Toro the Customer must pay to Toro any costs incurred by Toro as a result of the Customer's failure to accept a delivery of the Products or for any delay in accepting delivery of the Product. Toro may act and be deemed to have acted on behalf of and for the Customer in accordance with these Terms.

(h) Any matters put in writing by Toro for delivery in or to the Customer's premises are merely a guide and do not apply in a particular case. Toro will not hold it under any circumstances liable for:

(i) any delay in transport, unloading or packaging of Products or;

(j) damage, or loss of or damage by caused by entering premises to deliver the goods.

(i) While Toro will endeavor to meet any agreed delivery timeframes requested by the Customer, Toro is not liable for any delay.

(j) The Customer must give Toro notice of any discrepancy (whether oversupply or undersupply) in any invoice or quoted price compared to the Products delivered within 5 Business Days of delivery. Failure to provide notice within this time or failure to provide adequate information or cooperation to Toro abroges Toro from any liability for any delay.

(k) Toro will not hold it under any circumstances liable for:

(l) any delay in transport, unloading or packaging of Products or;

(m) damage, or loss of or damage by caused by entering premises to deliver the goods.

(n) While Toro will endeavor to meet any agreed delivery timeframes requested by the Customer, Toro is not liable for any delay.

(o) The Customer must give Toro notice of any discrepancy (whether oversupply or undersupply) in any invoice or quoted price compared to the Products delivered within 5 Business Days of delivery. Failure to provide notice within this time or failure to provide adequate information or cooperation to Toro abroges Toro from any liability for any delay.

(m) Toro will not hold it under any circumstances liable for:

(n) any delay in transport, unloading or packaging of Products or;

(o) damage, or loss of or damage by caused by entering premises to deliver the goods.

(p) While Toro will endeavor to meet any agreed delivery timeframes requested by the Customer, Toro is not liable for any delay.

(q) The Customer must give Toro notice of any discrepancy (whether oversupply or undersupply) in any invoice or quoted price compared to the Products delivered within 5 Business Days of delivery. Failure to provide notice within this time or failure to provide adequate information or cooperation to Toro abroges Toro from any liability for any delay.

(r) Toro will not hold it under any circumstances liable for:

(s) any delay in transport, unloading or packaging of Products or;

(t) damage, or loss of or damage by caused by entering premises to deliver the goods.

(u) While Toro will endeavor to meet any agreed delivery timeframes requested by the Customer, Toro is not liable for any delay.

(v) The Customer must give Toro notice of any discrepancy (whether oversupply or undersupply) in any invoice or quoted price compared to the Products delivered within 5 Business Days of delivery. Failure to provide notice within this time or failure to provide adequate information or cooperation to Toro abroges Toro from any liability for any delay.

(w) Toro will not hold it under any circumstances liable for:

(x) any delay in transport, unloading or packaging of Products or;

(y) damage, or loss of or damage by caused by entering premises to deliver the goods.

(z) While Toro will endeavor to meet any agreed delivery timeframes requested by the Customer, Toro is not liable for any delay.

{a) The Customer must give Toro notice of any discrepancy (whether oversupply or undersupply) in any invoice or quoted price compared to the Products delivered within 5 Business Days of delivery. Failure to provide notice within this time or failure to provide adequate information or cooperation to Toro abroges Toro from any liability for any delay.
Toro Australia - Supply Terms

these Terms, or the performance or non-performance of these Terms and whether arising under any indemnity, statute, in tort (for negligence or otherwise), or on any other basis or law, equity is limited as follows:

(1) Toro will have no liability whatsoever to the Customer for any loss, harm, damage, cost or expense (including legal fees) in the nature of special, indirect or consequential loss or damage (including, without limitation, economic loss, loss of contract, loss of profit or income, loss of opportunity, loss of production, stoppage or loss of data);

(2) Toro’s aggregate of liability for its own or its Personnel’s, causes or contributes to any Damages suffered (including but not limited to negligent handling, disregard of operating or maintenance instructions, overthrowing or unstable operating conditions, defective or building work, lightning, accident, neglect, failure or use of any act beyond Toro’s control)

(h) In relation to non-excludable Obligations (other than a guarantee as to title, accuracy of or proof possession confirmed by the Australian Consumer Law), except for goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption (in respect of which Toro’s liability is not limited under these Terms), Toro’s liability to the Customer for a failure to comply with a non-excludable Obligation is limited to:

(1) in the case of services, the cost of supplying the services again or payment of the cost of having the services supplied again;

(2) in the case of products, the cost of replacing the goods, supplying equivalent goods or having the goods repaired, or payment of the cost of replacing the goods, supplying equivalent goods or having the goods repaired.

12. Measures

(a) Any representation made by Toro as to weight, length, quality, quantity or other characteristics [Characteristics] of Products are approximate and Toro will Supply Products on either the actual or stated basis, as Toro sees fit.

(b) A calculated basis will be in accordance with the applicable Australian standards.

(c) Any variance in the Characteristics must be notified to Toro in accordance with clause 6(f) and the Customer must give Toro the opportunity to Supply the Products using the mean removed from the mean removed on the means removed on the means removed by the Customer.

13. Defective Products

(a) When the Products are delivered to the Customer, the Customer must inspect the Products for any defects in the Products or services or in respect of the order without delay.

(b) If any defective Products or errors in relation to the order are identified:

(1) The Customer must immediately give Toro notice of the defect in writing within 5 Business Days of delivery; and

(2) The parties must discuss which of the following be applied to remedy the defect:

(a) sorting and reworking of the Products;

(b) returning the Products to Toro for exchange or repair; or

(c) requiring Toro to deliver appropriate replacement parts to the Customer as soon as possible upon Toro’s request.

ExCEPT as required by law or these Terms, Toro will be under no obligation to accept goods returned for any reason.

14. Indemnity

(a) The Customer indemnifies Toro against all Damages that Toro sustains or incurs (directly or indirectly) because of:

(1) a breach of a term of these Terms by the Customer; and

(2) any negligent, willful, reckless or unlawful act or omission of the Customer or any of its Personnel.

(b) The indemnity in this clause does not apply to the extent that the Damages are caused by:

(1) any negligent, willful, reckless or unlawful act or omission of Toro; or

(2) a breach of these Terms by Toro, but only to the extent that the act, omission or breach directly results in the Damages being suffered.

15. Confidential Information

(a) The Customer must:

(1) keep Confidential Information confidential and secure;

(2) comply with Toro’s directions regarding Confidential Information; and

(3) return Confidential Information to Toro on the request of Toro.

(b) The Customer’s obligations:

(1) use Confidential Information for the purposes of these Terms; and

(2) disclose Confidential information to a third party if (A) the third party has entered into a confidentiality undertaking that is no less onerous than this clause; and

(B) the third party has a confidentiality undertaking that is no less onerous than this clause.

(c) This clause does not apply to:

(1) information independently created, or known, by the Customer;

(2) information that is public knowledge (except for a breach of these Terms); or

(3) required to be disclosed by law.

16. Amendment of Terms

These Terms may be amended by Toro at any time by sending a copy of the change to the Customer or by displaying the change on the Website.

17. Force Majeure

If there is a Force Majeure Event:

(1) as soon as reasonably practicable, Toro must give the Customer notice of the Force Majeure Event;

(2) Toro’s obligations are suspended during the time and to the extent that it is prevented from or delayed in complying with its obligations due to the Force Majeure Event;

(3) Toro is not liable to the Customer in a third party for any Damages arising as a result of the Force Majeure Event; and

(4) if the Force Majeure Event continues for more than 20 days, Toro may give notice to the Customer cancel the order.

18. GST

(a) This clause 18, a word or expression defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) has the meaning given in that Act;

(b) For the purposes of these Terms, where the expression GST inclusive is used in relation to an amount payable or other consideration to be provided by Toro under or in connection with these Terms, the amount or consideration will not be increased on account of any GST payable on that supply;

(c) Any consideration to be paid or provided to Toro for a supply made by Toro under or in connection with these Terms, unless specifically described in these Terms as GST inclusive, does not include an amount on account of any GST payable on that supply;

(d) Despite any other provision in these Terms, if Toro makes a supply under or in connection with these Terms on which GST is imposed (not taking into account the consideration for which is specifically described in these Terms and Conditions as GST inclusive), the consideration payable to Toro for that supply under these Terms is increased by, and the amount by which the consideration is increased is to be paid to Toro by the Customer, without set-off, deduction or requirement for demand, at the same time and as consideration is payable or to be provided;

(e) If a payment to a Party under these Terms is a reimbursement of or indemnification for a loss, cost or expense incurred by that party, then the payment is reduced by the amount of any tax the Customer has paid or will pay for that party for the loss, cost or expense.

(f) Toro must provide a tax invoice.

19. Notices and Communications

A notice, demand, consent, approval, neglect or communication under these Terms:

(a) must be in writing, signed by a person duly authorised by the sender;

(b) must be hand delivered or sent by prepaid post or facsimile to the recipient’s address specified on a Purchase Order, as varied by any Notices given by the recipient to the sender; and

(c) is taken to be received:

(1) if hand delivered, on delivery;

(2) if sent by post on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia);

(3) if sent by facsimile, when the recipient’s facsimile system acknowledges successful transmission of the entire Notice unless, within eight Business Days of the transmission, the recipient informs the sender that it has not received the entire Notice

if the delivery, receipt or transmission is not on a Business Day or is after 5:00pm on a Business Day, the Notice is taken to be received at 9:00am the next Business Day.

20. Trusts

(a) Where the Customer is a trustee of a trust, the Customer represents and warrants to Toro that:

(1) the trust was validly created and is in existence;

(2) it was properly appointed as and is the sole trustee of the trust;

(3) it has an unrestricted right to be indemnified out of, and is a lien over, the assets of the trust;

(4) Toro has no knowledge of or reason to believe that the Customer’s rights of indemnity against and lien over the assets of the trust;

(5) the assets of the trust are sufficient to meet the Customer’s financial obligations under these Terms;

(6) Toro has full power and authority under the trust to enter into these Terms; and

(7) Toro has entered into these Terms for the benefit of all of the beneficiaries of the trust.

(b) If the Customer breaches the warranty in paragraph (a) then the Customer is personally liable to Toro for any amounts due and payable by the Customer under these Terms.

(c) Where the Customer is a trustee of a trust:

(1) the trust is not removed or be removed as trustee of the trust;

(2) Toro may not do anything or permit anything which breaches the trust;

(3) ensure that the assets of the trust are sufficient to meet the Customer’s financial obligations under these Terms;

(4) ensure that it retains its right to be indemnified out of and lien over the assets of the trust in obligations incurred by it under these Terms.

21. Integrity Obligacy

(a) Toro shall ensure by ongoing organisational measures and instructions to its Personnel and third party business partners that it:

(1) understands and will not take any action that would cause Toro to violate any applicable law, including but not limited to the Australian Criminal Code Amendment (Money Laundering and Terrorist Financing) Act 2006, the Corporations Act 2001, the U.S. Foreign Corrupt Practices Act of 1977, or any other applicable legal acts prohibits corrupt or otherwise harmful business practices.

(2) understands and will not take any action that would cause Toro to violate Australian or U.S. export controls or trade and economic sanctions, or any other applicable legal acts restricting transactions with specified persons or entities, as may be amended or replaced from time to time;

(3) will not make, knowingly or unknowingly allow its third party business partners to commit acts prohibited under these Terms;

(4) has reviewed and agrees to abide by Toro’s Anti- Corruption Policy and agrees to review and abide by all other related guidance or training materials as Toro may issue from time to time;

(5) will establish, implement, and maintain such anti-corruption and export compliance policies and procedures as may be required to ensure that its practices meet the standards contained within Toro’s Anti-Corruption Policy and all other related guidance or training materials as Toro may issue from time to time.

(b) If the Customer suspects or discovers that it has violated any of the provisions of this clause, it shall immediately notify Toro and cooperate in good faith with any investigation Toro commences into such violation.

(c) If Toro immediately terminates this Agreement Dealer violates any of the provisions of this clause.

(d) Toro’s breach of this clause results in a Claim against Toro, the Dealer must indemnify Toro against all Damages arising from the Dealer’s breach.

22. Miscellaneous

(a) If an order is accepted, these Terms can only be varied in writing by Toro and the Customer. Toro can amend these Terms before it accepts an order.

(b) A non-compliance may be varied in writing and may be given conditionally or unconditionally or without Toro’s absolute discretion.

(c) The Customer may not assign a right under these Terms with Toro’s prior written consent.

(d) Toro may assign a right under these Terms.

(e) Any indemnity or any obligation of confidence under these Terms is independent and survives termination of these Terms.

(f) Any provision these Terms that is illegal or unenforceable may be deleted and the remaining terms remain in force.

(g) A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right or power of remedy. A waiver of a right, power or remedy must be in writing and signify the party giving the waiver.

(h) These Terms do not create a relationship of employment, trust, agency or partnership between Toro and the Customer.

(i) These Terms are governed by the laws of South Australia and the Customer irrevocably submits to the jurisdiction of its courts.

23. Privacy Act

The Applicant, and signatories on behalf of the Applicant in their personal capacity, agrees to the terms of the Privacy Statement pursuant to the Privacy Act 1988 (as amended by the Privacy Amendment (Enhancing Privacy Protection) Act 2012) contained in this document.

Toro Australia Group Sales Pty Ltd

5th of April 2018