

IT IS AGREED as follows:

1. INTERPRETATION AND CONSTRUCTION

1.1 Definitions

- (a) **"Agreement"** means these terms and conditions, and the terms and conditions noted on the Quotation.
- (b) **"Account Customers"** means a Customer who has applied for a credit account which the Company has accepted and has entered into the Company's Commercial Credit Application Agreement including the Guarantee and Indemnity contained therein.
- (c) **"Claim"** means any claim, action, demand or proceeding however arising (including under contract, statute, common law or equity).
- (d) **"Company"** means Aspect Windows Pty Ltd (Trustee Aspect Trust ABN 42 475 802 044).
- (e) **"Company's Commercial Credit Application Agreement"** means the credit application applied for by the Customer in favour of the Company.
- (f) **"Goods"** means any goods supplied by the Company to the Customer, as set out in a Quotation.
- (g) **"Customer"** means any person, company or other entity that has requested the supply of Goods and/or services.
- (h) **"Loss"** includes (without limitation) the following, whether direct or indirect, special or consequential in nature:
 - i. loss, damage, costs (including legal costs on a solicitor and own client basis), action or expense of any kind; and
 - ii. to the extent not covered in the preceding subclause, loss of profits, opportunity, use, revenue, goodwill, bargain, production, sales turnover, income, reputation (or damage to it), employment, corruption or destruction of data, customers, loss relating to or in connection with any other contract, business or anticipated savings, reduction in value, any delay or financing costs or increase in operating costs, or any other financial or economic loss; and
 - iii. anything referred to in the preceding subclauses relating to or arising out of or in connection with personal injury (including death or disease) to the Customer, personal injury (including death or disease) to any third party; or loss of or damage to the property of the Company, the Customer or any third party; and a breach or non-compliance by the Company or the Customer with any law.
- (i) **"Order"** means any order made by the Customer for the supply of Goods and/or services from the Company.
- (j) **"Personnel"** means the directors, officers, employees, contractors, suppliers, advisers or agents of a party, and in the case of the Customer, includes without limitation any builder or carpenter or other trade person engaged by them and any of their Personnel.
- (k) **"Plans"** means any drawings, structural or other plans, specifications, documents, instructions or information (including verbal instructions or descriptions) provided by the Customer (or its Personnel) to the Company.
- (l) **"PPSA"** means the Personal Property Securities Act 2009.
- (m) **"Quotation"** means any quotation provided by the Company to the Customer in relation to the provision of Goods.
- (n) **"Site"** means any site at which the Goods are to be provided as specified in the Quotation or otherwise agreed in writing.
- (o) **"Terms"** means these Terms and Conditions of Sale.

1.2 Construction

- (a) a reference to these Terms or another agreement includes any variation;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements;
- (c) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (d) an obligation, agreement, representation or warranty on the part of or in favour of two or more persons binds, and/or is for the benefit of them jointly and severally;
- (e) a reference to anything is a reference to the whole or any part of it; and
- (f) references to parties or clauses are, unless otherwise provided, references to the parties and clauses contained in these Terms.

2. FEES, PAYMENT TERMS AND INTEREST CHARGES

- 2.1** The Customer warrants that it has the power to enter into this Agreement, is solvent and able to pay its debts as and when they fall due, this Agreement creates a binding and legal obligation and all information provided to the Company by the Customer is true and correct in all material respects.
- 2.2** The Customer agrees that it upon receiving a Quotation or making an Order for the supply of Goods, these Terms apply and the Customer accepts the Terms without amendment and agrees to be bound by these Terms.
- 2.3** Unless otherwise expressly provided for in a Quotation or an invoice, the amount shown on any invoice issued by the Company to the Customer shall be paid by the Customer in full within thirty (30) days of the date of the invoice.
- 2.4** Payment of fees may be made by any other method as agreed to between the Company and Customer. All fees are non-refundable to the extent permitted by law.
- 2.5** The fees payable by the Customer to the Company for the Goods is the amount specified in a Quotation.
- 2.6** The Company reserves the right to vary the fees payable, even after the Customer has accepted a Quotation or instructed the Company to proceed with the supply of Goods, in the event of:
 - (a) variations to the Goods requested (including specifications of the Goods); and
 - (b) any variation to the Company's cost of labour or materials, or fluctuations in currency exchange rates, inaccurate structural measurements provided by the Customer or otherwise inaccurate Plans, or where additional Goods are required due to unforeseen circumstances which are beyond the Company's control.
- 2.7** Such variations will be charged for on the basis of the Company's Quotation or then current price list as applicable and will be shown as variations on the invoice issued by the Company.
- 2.8** The Customer may not withhold payment or make any deduction from any amount owing without the Company's prior written consent, irrespective of any claim the Customer may have against the Company. The Customer shall not deduct any sum from the amount due on any invoice or statement for any reason whatsoever.
- 2.9** Should payment in full remain outstanding beyond the Company's payment terms as provided at clause 2.3 the Customer agrees to pay interest on all amounts outstanding from the due date until the date of payment at a rate prescribed from time to time pursuant to section 2 of the Penalty Interest Rates Act 1983.
- 2.10** Should payment in full remain outstanding beyond the Company's payment terms as provided at clause 2.3 the Customer is liable for all legal costs (on a solicitor and own client basis) incurred by the Company in recovering the amount outstanding.

3. ACCOUNT HOLDER

- 3.1** The terms of this clause 3 only applies to Customers who are Account Customers.
- 3.2** The Customer may obtain Goods from the Company on credit up to the amount of the Customer's credit limit authorised by the Company upon acceptance by the Company of the Customer's application for credit. The Company reserves the right to refuse to supply Goods on credit and may (in its discretion) suspend the provision of credit in the event of breach of any term of these Terms or if the Customer exceeds the credit limit.

- 3.3 The Customer remains liable to pay all amounts due to the Company regardless of whether the Customer has exceeded the Customer's credit limit.
- 3.4 If the Customer defaults in any payment obligations under these Terms, the Customer's credit facilities may be suspended or withdrawn without prior notice and upon any subsequent resumption of such facilities these Terms shall apply to such further facilities.
- 3.5 The Customer hereby charges in the Company's favour all monies due and payable to the Customer under any head-contract held by the Customer in respect of which the Customer purchased goods from the Company and the Customer hereby agrees that the Company will be entitled to all rights, powers and remedies conferred upon sub-contractors as if all monies due and owing to the Customer were monies due and owing under a sub-contract.
- 3.6 The Customer (and in the case of a company each of the Customer's officers and sureties) irrevocably authorises the Company to make enquiries exchange, collect and use a Customer's personal information including credit information and information relating to property, business or other solvency matters from time to time which the Company deems necessary including enquiries with persons nominated as trade references, financiers, credit providers, credit reporting bodies, government departments and/or other organisations ("Information Provider") for the following purposes:
- to allow the Company to provide a credit facility for the supply of goods and/or services to the Customer;
 - obtaining information and investigating the credit worthiness of the Customer in relation to the credit to be provided by the Company;
 - using any information obtained for the purposes of assessing the Customer's credit, collecting payments due under these Terms and notifying other credit providers;
 - disclosing information where it has a duty to the public to disclose that information, and/or where it is required by law; and
 - for marketing purposes (unless the Customer has notified the Company that it wishes to opt out of direct marketing).
- 3.7 The Customer acknowledges that the information exchanged under clause 3.6 includes any information in relation to the Customer's credit worthiness or credit history.
- 3.8 The Customer consents and irrevocably authorises:
- to the maximum extent permitted by law, Customer agrees, unless the Customer otherwise withdraws consent, to waive all rights under the Privacy Act 1988 (Cth);
 - the Company to notify the credit provider in relation to a default of the Customer; and
 - the Company to engage a credit reporting body to obtain a credit report or to permit a credit reporting body to maintain or update the Customer's credit file.
- 3.9 The Customer (and in the case of a company each of the Customer's officers and sureties) may at any time gain access, upon request, to the information held about the Customer.
- 4. CANCELLATION AND TERMINATION**
- 4.1 The Company may at its absolute discretion, by written notice to the Customer, immediately terminate this Agreement or one or more Quotations, or withhold delivery of any Goods ordered without incurring any liability for any Loss suffered by the Customer if:
- the Customer fails to make payment of any amount due under these Terms on time or otherwise in accordance with these Terms;
 - the Customer commits any breach of these terms and conditions;
 - the Customer being an individual dies or commits any act of bankruptcy pursuant to Section 40 of the Bankruptcy Act;
 - the Customer being a company is wound up or has a receiver or receiver and manager or official manager or scheme administrator or agent for a mortgagee in possession appointed to it, or if a mortgagee enters into possession of assets of it;
 - the Customer breaches these Terms or a Quotation and fails to rectify the breach within seven (7) days of being given a notice to do so;
 - the Customer fails to provide the Company upon request with any information necessary for the completion of any order; or
 - the Company is unable to perform the Agreement as a result of war, civil unrest, industrial strike, acts of God, breakdown of machinery and/or delivery equipment or any other cause beyond the control of the Company.
- 4.2 The Customer may not cancel the Goods at any time except where expressly permitted by these Terms.
- 4.3 Upon termination of this Agreement the Customer shall be liable to pay to the Company for all Goods supplied by the Company up until the date of termination, and such amounts shall be a debt immediately due and owing. In the event that the Company terminates this Agreement, then the Customer will also be liable to pay the Company all amounts which would have otherwise been payable under the Quotation had it not been terminated and such amount shall be a debt immediately due and owing.
- 4.4 The termination of a Quotation does not affect any other Quotation/s which shall continue.
- 4.5 The rights and remedies of the parties contained in this clause are in addition to any other rights and remedies by law, in equity or under this Agreement.
- 5. TITLE IN GOODS**
- 5.1 The title in the Goods shall remain with the Company until and unless the Goods and all other amounts owing in respect of the Goods are paid for in full.
- 5.2 Until the Goods have been paid for in full, the Customer shall hold the goods as bailee for the Company and shall store the goods separately from other materials so as to render such goods capable of separate identification and collection by the Company.
- 5.3 Where payment for the Goods is not made on or before the due date as referred to in Clause 2.3 hereof, the Customer shall upon the request of the Company deliver up the goods to the Company, failing which the Company is hereby irrevocably authorised by the Customer to enter at any time by any of the Company's officers, servants or agents upon the premises where the Goods are situated and to retake possession of those goods.
- 5.4 Notwithstanding the provisions of the preceding clauses 5.1 to 5.3 if the Customer sells the goods to a third party prior to those Goods being paid for in full by the Customer, the proceeds of such sale shall be held by the Customer in trust for the Company and the Customer shall in those circumstances owe a fiduciary duty to the Company in respect of any such proceeds of sale.
- 5.5 Where the Agreement provides for delivery of Goods by instalment/s, title in the Goods shall not pass from the Company unless and until payment has been made to the Company for all the Goods. Failure to make any payment when due shall, without prejudice to any other of the Company's rights, entitle the Company to terminate the Agreement and retake possession of the Goods.
- 6. DELIVERY TIMEFRAMES**
- 6.1 The Goods will be delivered by the Company to the Site nominated in the Quotation or otherwise agreed by the Company in writing. The Customer may not change the delivery address without the Company's written consent, and additional charges may apply in the event of any changes.
- 6.2 The Company will not be responsible for any lost or stolen Goods in the event that they are delivered to the Site (regardless of whether the Customer or its Personnel were available to collect them). On the Company delivering the Goods to the Site as directed by the Customer, all risk in relation to storage, handling, cartage and any use of such goods shall pass to the Customer immediately following

the delivery of such Goods, notwithstanding that title to such Goods shall remain with the Company until payment for such Goods is made in full. The Company shall not be liable to the Customer for any loss or damage to goods resulting from the stacking or placing of the goods by the Company at any location at the request/direction of the Customer.

6.3 The Company agrees to make all reasonable efforts and use its best endeavours to deliver the Goods and to otherwise perform its obligations under the Agreement on a timely basis. Any timelines for delivery of Goods given by the Company to the Customer is an estimate only and shall not be binding on the Company and subject to change without notice. The Company does not guarantee the Goods will be delivered by any delivery dates provided to the Customer. The Customer must still accept delivery of the Goods even if late and the Company will not be liable for any Loss or damage incurred by the Customer as a result of the delivery being late.

6.4 The Customer must take delivery of the Goods whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods as arranged then the Company shall be entitled to charge a reasonable fee for redelivery and/or storage. Where this occurs, the Company will store the Goods at the risk of the Customer until delivery takes place again.

7. GOODS NOT CORRESPONDING WITH ORDER

7.1 The Customer must inspect the Goods immediately upon delivery of the Goods.

7.2 In the event that any Goods supplied by the Company to the Customer do not correspond with their description, the Customer may reject as defective those Goods, provided the Customer presents written notice to the Company within seven (7) days of the date of delivery or collection of the Goods.

7.3 Unless written notice is provided by the Customer pursuant to Clause 7.2, the Customer shall be deemed to have accepted the Goods as complying with the description in the Quotation.

7.4 In the event a notice pursuant to Clause 7.2 is provided by the Customer, the Customer must:

- (a) provide any photographic evidence requested by the Company; and
- (b) allow the Company to inspect the Goods supplied to determine whether they are defective (this includes granting the Company unimpeded access to inspect such Goods).

7.5 If the Customer is aware or ought reasonably to be aware that the Goods are defective for any reason, then the Customer must take all necessary steps to mitigate any loss. The Customer must not attempt to repair any Goods itself except where directed to do so by the Company in writing.

7.6 Except as required by law, for each Good that is deemed defective in accordance with this clause, the Company's liability will be limited to the supplying of the relevant Goods again and such replacement Goods will not be supplied until the Customer's account is paid in full.

7.7 The Company shall be under no obligation to accept a return of any Goods by the Customer if those Goods have been sawn, nailed, painted or otherwise damaged or situated such that the collection and return of them to the Company's premises is not reasonably practicable.

7.8 Subject to the terms of this clause, the Goods will only be dealt with in accordance with this clause provided that:

- (a) the Customer has complied with the other terms of this clause;
- (b) the Company has agreed (in its reasonable opinion) that the Goods are defective;
- (c) the defective Goods are returned within fourteen (14) days to the Company (if necessary) at the Customer's cost; and
- (d) the returned Goods are accompanied by all original delivery documentation.

7.9 Notwithstanding the above clauses, the Company will not be liable for or required to accept any return for any defect or damage in any case where such defect or damage is caused or partly caused by or arises as a result of:

- (a) the Customer's acts or omissions, including the Customer failing to take reasonable steps to prevent them from becoming defective or the Customer failing to follow the Company's instructions or best industry practice or any other obligations set out in the Agreement;
- (b) the Company following any instructions supplied by the Customer, including the Plans;
- (c) the Customer altering, modifying or repairing the Goods without the written consent of the Company;
- (d) the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a prudent operator or user;
- (e) wilful damage, negligence, or incorrect storage;
- (f) fair wear and tear; or
- (g) any accident or circumstance outside the reasonable control of the Company.

7.10 The Customer acknowledges that prior to the Order it has satisfied itself by independent investigation as to the suitability of the Goods for its purposes and as to the requirements of any applicable legislation or any relevant government authority. To the fullest extent permitted by law all warranties as to suitability and as to adequacy otherwise applicable are expressly negated.

7.11 Where the Customer arranges for the transport and logistics of the Goods, the Customer takes sole responsibility of such, and the Company expressly excludes all warranties with respect to any defect or damage that occurs as a result of the transport and logistics arranged by the Customer. All risk in relation to storage, handling, cartage and use of any such Goods shall pass to the Customer immediately upon collection of the Goods from the Company's premises, notwithstanding that the title to such Goods shall remain with the Company until payment for such Goods is made in full.

8. OTHER EXCLUSIONS

8.1 Notwithstanding any other clause in these Terms, the Company will only be responsible for defects in the Goods and components that the Company supplies. To the extent permitted by law the Company will not be liable for or required to provide any remedy for:

- (a) any components or materials supplied by the Customer;
- (b) any services carried out by third parties;
- (c) any defect or damage where such defect or damage is caused by or arises as a result of the Customer (or the Customer fails to take reasonable steps to prevent them from becoming defective), fair wear and tear, or any accident or circumstance outside the reasonable control of the Company;
- (d) damages incurred as a result of the installation or removal of the Goods after being supplied;
- (e) water damage to floor coverings and walls; and
- (f) any consequential, indirect or special losses.

9. INDEMNITY AND RELEASE

9.1 Except as provided under the Agreement and to the extent permitted by law the Customer releases the Company and its officers, employees and agents from any and all Claims by the Customer or any of its officers, employees, agents or invitees, except to the extent (if any that) the Loss the subject of the Claim is caused by the fraudulent act or omission of the Company.

- 9.2 The Customer indemnifies the Company against, and holds the Company harmless from, any Losses (including any direct, indirect, special or consequential Losses) and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses suffered or incurred by the Company arising out of or in connection with:
- (a) any Claim made against the Company and/or the Customer by a third party arising out of or in connection with the provision of the Goods and/or these Terms;
 - (b) the Customer's breach or negligent performance or non-performance of these Terms, including any failure to pay any fees on time;
 - (c) any event or cause, beyond the control of the Company;
 - (d) any reliance by the Customer or a third party on the Goods or any advice, information or deliverable provided in connection with the provision of the Goods and/or these Terms;
 - (e) the enforcement of these Terms; and
 - (f) any act, omission or wilful misconduct of the Customer or the Customer's Personnel (including any negligent act or omission).

9.3 The Customer must make payments under these Terms:

- (a) in full without set-off or counterclaim, and without any deduction in respect of taxes unless prohibited by law; and
- (b) in Australian dollars as immediately available funds.

9.4 The indemnities in this clause:

- (a) are continuing obligations of the Customer, independent from its other obligations under these Terms and survive termination or expiry of these Terms; and
- (b) are absolute and unconditional and unaffected by anything which otherwise might have the effect of prejudicing, releasing, discharging or affecting the liability of the Customer.

10. DISCLAIMER

10.1 The Company provides the Goods on an "as is" basis and without any warranties, representations, or conditions of any kind, whether express, implied or statutory, to the extent permitted by law. The Customer relies on the Goods at its own risk.

10.2 Without limiting the other terms of this clause, the Customer acknowledges and agrees that:

- (a) any advice, recommendation, information, assistance or service provided by the Company in relation to the Goods supplied is given in good faith, is based on the Company's own knowledge and experience and it shall be the responsibility of the Customer to confirm the accuracy and reliability of the same in light of the use to which the Customer makes or intends to make of the Goods. Such advice, recommendations, information and assistance is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation;
- (b) the Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance;
- (c) that the Goods supplied may:
 - i. exhibit variations in shade, colour, texture, surface, finish, markings and may contain natural fissures, occlusions, lines, indentations and may fade or change colour over time; and
 - ii. mark or stain if exposed to certain substances; and
 - iii. be damaged or disfigured by impact or scratching.

11. EXCLUSION AND LIMITATION OF LIABILITY

11.1 The Company excludes all rights, representations, guarantees, conditions, warranties, undertakings, remedies or other terms in relation to the Goods that are not expressly set out in these Terms to the maximum extent permitted by law.

11.2 Without limiting the generality of clause 11.1 the Company expressly excludes any liability in contract, tort or otherwise for any injury, damage, Loss, delay or inconvenience caused directly or indirectly by:

- (a) any act or omission of the Customer or its Personnel, including any delay caused by the Customer or its Personnel;
- (b) any problem caused by misuse, abuse, wear and tear or abnormal movement; and
- (c) any defect in, or problem caused by, materials or Goods supplied by the Customer or its Personnel.

11.3 Subject to the other terms of this clause, the Company's total maximum aggregate liability to the Customer for any Loss or damage or injury arising out of or in connection with the supply of Goods under these Terms, including any breach by the Company of these Terms however arising, under any indemnity, in tort (including negligence), under any statute, custom, law or on any other basis, is limited to the actual charges paid by the Customer to the Company under these Terms in the 12-month period preceding the matter or event giving rise to the claim.

11.4 Prices quoted may be subject to review after thirty (30) days from the date of the Quotation.

11.5 Nothing in these Terms are intended to have the effect of excluding, restricting or modifying the application of all or any of the provisions of Part 5-4 of the ACL, or the exercise of a right conferred by such a provision, or any liability of the Company in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the ACL to a supply of goods or services.

11.6 If the Company is liable to the Customer in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the ACL that cannot be excluded, or is otherwise liable for any matter that cannot be excluded, the Company's total liability to the Customer for that failure is limited to, at the option of the Company the costs of the resupply of the relevant Goods to which the liability relates or the payment of the costs of resupply of the relevant Goods.

11.7 Without limitation to the other terms of these Terms, the Company excludes any liability to the Customer, whether in contract, tort (including negligence) or otherwise, for any special, indirect or consequential Loss arising under or in connection with these Terms.

PERSONAL PROPERTY SECURITIES & CHARGE OVER PROPERTY

11.8 The Customer confirms and agrees that, upon the Company's acceptance of a signed Order from the Customer, a charge is, by virtue of this clause, created in favour of the Company over all the Customer's real and personal estate with the amount of all monies owed or owing to the Company and, in respect of the said charge, the Customer consents to the lodging by the Company from time to time of a Caveat in respect of any real property of the Customer; and

11.9 The Customer consents to this document standing as a registrable general security interest under the *Personal Property Securities Act 2009*.

11.10 The Customer acknowledges and agrees that notwithstanding any other provision of these Terms:

- (a) the PPSA applies to the supply of Goods by the Company to the Customer;
- (b) the Goods the Customer is receiving from the Company are not to be used as inventory;
- (c) by agreeing to and/or accepting or adopting these Terms the Customer grants to the Company a purchase money security interest in the Goods to secure the Company's interest in the Goods and all moneys owing or payable by the Customer under these Terms and any other monies payable by the Customer to the Company from time to time on any account whatsoever.

- (d) if a purchase money security interest is not able to be claimed by the Company in respect of the Goods for any reason, the Company will have a security interest in the Goods as the case may be;
- (e) the Customer agrees that the Company's security interest the Goods covered by these Terms may be registered on the PPS Register and the Customer agrees to do all things necessary and required by the Company to effect registration of the Company's security interest on the PPS Register;
- (f) the Customer warrants that all information provided by the Customer to the Company, including but not limited to the Customer's details, including the entity, name, ACN or ABN and address set out in the Quotation is correct in all respects and must not change its name, address or other details set out in the Quotation without providing the Company with at least twenty (20) business days prior written notice;
- (g) the Customer agrees that it will not grant a security interest or other encumbrance in the Goods whether under the PPSA or any other law to a third party unless it has obtained the prior written consent of the Company, which the Company may refuse to provide or grant in its absolute and unfettered discretion. The Company may require the Customer to provide any information that the Company requires, acting reasonably, in order to fully consider whether to grant its consent;
- (h) the Company's security interest in the Goods Equipment extends to any proceeds in all present and after acquired property including without limitation book debts and accounts receivable arising from the selling or hiring of the Goods by the Customer;
- (i) the Goods are located in Australia at the date of the supply of the Goods and the Customer warrants that the Goods will remain located in Australia for the duration of these Terms;
- (j) neither the Company nor the Customer will disclose any information to any interested person unless required to do so under the PPSA;
- (k) the Customer waives its right under the PPSA:
 - i. to receive a copy of any verification statement, financing change statement, or any notice on enforcement of the security or any other notice under the PPSA unless the notice is required to be given by the PPSA and cannot be contracted out of; and
 - ii. to object to a proposal by the Company to dispose of or purchase or retain the Goods in satisfaction of any obligation owed by the Customer to the Company
- (l) a default under any other security agreement under which it has granted a security interest to any other party in respect of the Goods is deemed to be a breach of these Terms.

12. COMPANY RESTRUCTURE

12.1 The Customer shall notify the Company immediately in writing of any change to its structure or management including change of director, shareholder, partnership, trustee or management or its details (including changes to name, address or contact details). The Customer agrees that if it fails to comply with this clause 12, it is liable and shall indemnify the Company for any Loss suffered by the Company.

13. MISCELLANEOUS

13.1 Entire Agreement

This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements and understandings, whether verbal or in writing.

This Agreement supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter

13.2 Variation

The Agreement or any part of it may be varied, modified, amended or added to only in writing executed by the parties.

13.3 Waiver

No provision of the Agreement shall be deemed to be waived except by express written consent executed by the party which is claimed to have waived the relevant provision.

13.4 Severability

If a provision or part of a provision of the Agreement is held invalid, unenforceable or illegal for any reason, then such provision or part, as the case may be, shall be deemed to be severed from the Agreement and the Agreement shall otherwise remain in full force.

13.5 Notices

A notice, demand, wavier, approval or other document given or required to be given pursuant to these Terms must be in writing and may be given to the recipient by way of personal service, prepaid post, facsimile transmission or email transmission at the address of the party as provided from time to time

13.6 Jurisdiction and Governing Law

- (a) The law of the State of Victoria, Australia governs this Agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria and of the Commonwealth of Australia.

13.7 Cumulative Rights

The powers of a party under this Agreement are cumulative and do not exclude any other right, power, authority, discretion or remedy of that party.

13.8 Liability of parties

If any party to this Agreement consists of more than one person then the liability of those persons under this Agreement is a joint liability of all those persons and a separate liability of each of them.

13.9 Counterparts

This Agreement may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

13.10 Non-merger

A provision of this Agreement which can, and is intended to, operate after the termination of this Agreement remains effective after termination.

