



AZL Holdings Pty Ltd

email: account@azl.com.au Phone: 02 97722777

CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

Apply Credit with(Tick one only): AZL NSW AZL VIC AZL QLD

Type of Business:	Company	Sole Trader	Trust	Partnership
Company Name:				ABN:
Trading Name:				ACN:
Physical Address:				State: Postcode:
Billing Address:				State: Postcode:
Email Address:				Phone No:
Alternative Email Address:				Fax No:
Directors / Owners / Trustee (if more than two, please attach a separate sheet)				
Full Name:				D.O.B.
Private Address:				State: Postcode:
Driver's Licence No:	Phone No:			Mobile No:
Full Name:				D.O.B.
Private Address:				State: Postcode:
Driver's Licence No:	Phone No:			Mobile No:
Date Business / Company Established: (Current Owners)				Credit Limit Required: \$
Nature of Business:	Paid Up Capital:			Estimated Monthly Purchases: \$
Principal Place of Business is: <input type="checkbox"/> Rented <input type="checkbox"/> Owned <input type="checkbox"/> Mortgaged (to whom)				
Purchase Order Required:	<input type="checkbox"/> YES	<input type="checkbox"/> NO	Accounts to be emailed?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Accounts Email Address:				
Accounts Contact:	Phone No:			Mobile No:
Bank and Branch:				Account No:
Account Terms:	COD	7 Days	14 Days	30 Days OTHER:
Trade References: (Please provide companies that are willing to do trade references)				
Name	Address		Phone / Fax / Email:	
1.				
2.				
3.				

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understood the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of AZL Holdings Pty Ltd including AZL Construction Suppliers NSW Pty Ltd ,AZL Construction Suppliers VIC Pty Ltd and AZL Construction Suppliers QLD Pty Ltd which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. **I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Client I shall be personally liable for the performance of the Client's obligations under this contract.**

SIGNED (CLIENT): _____ **SIGNED (AGENT):** _____

Name: _____ Name: _____

Position: _____ Position: _____

WITNESS TO CLIENT'S SIGNATURE:

Signed: _____ Name: _____ Date: _____

Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of AZL Holdings Pty Ltd, AZL NSW, AZL QLD, AZL VIC and its successors and assigns ("the Agent") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

("the Client") [Insert Company Name In Box Provided]

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

1. **GUARANTEE** the due and punctual payment to the Agent of all monies which are now owing to the Agent by the Client and all further sums of money from time to time owing to the Agent by the Client in respect of goods and services supplied or to be supplied by the Agent to the Client or any other liability of the Client to the Agent, and the due observance and performance by the Client of all its obligations contained or implied in any contract with the Agent, including but not limited to the Terms & Conditions of Trade signed by the Client and annexed to this Guarantee and Indemnity. If for any reason the Client does not pay any amount owing to the Agent the Guarantor will immediately on demand pay the relevant amount to the Agent. In consideration of the Agent agreeing to supply the goods and/or services to the Client, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 ("PPSA") and unequivocally consents to the Agent registering any interest so charged. The Guarantor irrevocably appoints the Agent and each director of the Agent as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which the Agent may reasonably require to:
 - (a) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (b) register any other document required to be registered by the PPSA or any other law; or
 - (c) correct a defect in a statement referred to in clause 1(a) or 1(b).
2. **HOLD HARMLESS AND INDEMNIFY** the Agent on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, the Agent in connection with:
 - (a) the supply of goods and/or services to the Client; or
 - (b) the recovery of monies owing to the Agent by the Client including the enforcement of this Guarantee and Indemnity, and including but not limited to the Agent's nominees contract default fee and legal costs; or
 - (c) monies paid by the Agent with the Client's consent in settlement of a dispute that arises or results from a dispute between, the Agent, the Client, and a third party or any combination thereof, over the supply of goods and/or services by the Agent to the Client.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

3. **I/We have received, read and understood the Agent's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
4. This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of monies owing to the Agent by the Client and all obligations herein have been fully paid satisfied and performed.
5. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Agent's part (whether in respect of the Client or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Client's obligations to the Agent, each Guarantor shall be a principal debtor and liable to the Agent accordingly.
6. If any payment received or recovered by the Agent is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the Agent shall each be restored to the position in which they would have been had no such payment been made.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally.
8. **I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Client to the Agent.**
9. I/we irrevocably authorise the Agent to obtain from any person or company any information which the Agent may require for credit reference purposes. I/We further irrevocably authorise the Agent to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with the Agent as a result of this Guarantee and Indemnity being actioned by the Agent.
10. The above information is to be used by the Agent for all purposes in connection with the Agent considering this Guarantee and Indemnity and the subsequent enforcement of the same.

GUARANTOR-1

SIGNED: _____

FULL NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____

GUARANTOR-2

SIGNED: _____

FULL NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____

Note: 1. If the Client is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
 2. If the Client is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member.

WARNING: THIS IS AN IMPORTANT DOCUMENT YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT

AZL Holdings Pty Ltd Terms & Conditions of Trade

1. Definitions

- 1.1 "Agent" shall mean AZL Holdings Pty Ltd, including AZL Construction Suppliers NSW Pty Ltd, AZL Construction Suppliers VIC Pty Ltd and AZL Construction Suppliers QLD Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of mean AZL Holdings Pty Ltd, including AZL Construction Suppliers NSW Pty Ltd, AZL Construction Suppliers VIC Pty Ltd and AZL Construction Suppliers QLD Pty Ltd.
- 1.2 "Client" shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by the Agent to the Client.
- 1.3 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Goods" shall mean Goods supplied by the Agent to the Client (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation, work authorisation or any other forms as provided by the Agent to the Client.
- 1.5 "Services" shall mean all Services supplied by the Agent to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 1.6 "Price" shall mean the price payable for the Goods as agreed between the Agent and the Client in accordance with clause 4 of this contract.

2. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")

- 2.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

3. Acceptance

- 3.1 Any instructions received by the Agent from the Client for the supply of Goods and/or the Client's acceptance of Goods supplied by the Agent shall constitute acceptance of the terms and conditions contained herein.
- 3.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 3.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of the Agent.
- 3.4 The Client shall give the Agent not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by the Agent as a result of the Client's failure to comply with this clause.
- 3.5 Goods are supplied by the Agent only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.

4. Price And Payment

- 4.1 At the Agent's sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by the Agent to the Client in respect of Goods supplied; or
 - (b) the Agent's quoted Price (subject to clause 4.2 and 4.3) which shall be binding upon the Agent provided that the Client shall accept the Agent's quotation in writing within seven (7) days.
- 4.2 The Agent reserves the right to change the Price in the event of a variation to the Agent's quotation. Any variation from the plan of scheduled Services or Goods specifications (including, but not limited to, any variation as a result of fluctuations in currency exchange rates) will be charged for on the basis of the Agent's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 4.3 Unless stated otherwise on the Agent's quotation, the Price:
 - (a) is based on the understanding that the Client shall provide a firm and level foundation on which to base the Goods and that firm access for vehicles shall be provided; and
 - (b) shall not include the supply of chain wire and shade cloth; and
 - (c) is based upon normal working hours, being Monday to Friday 7:30am to 4:00pm.
- 4.4 At the Agent's sole discretion a deposit may be required.
- 4.5 At the Agent's sole discretion:
 - (a) payment shall be due on delivery of the Goods; or
 - (b) payment shall be due before delivery of the Goods; or
 - (c) payment for approved Clients shall be made by instalments in accordance with the Agent's payment schedule.
- 4.6 Where no payment schedule has been specified, the Agent may submit a detailed payment claim at intervals not less than one (1) month for Services performed up to the end of each month. The value of Services so performed shall include the reasonable value of authorised variations and the value of Goods delivered to the site but not yet installed.
- 4.7 Time for payment for the Goods shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due fourteen (14) days following the date of the invoice.
- 4.8 Payment will be made by cash, or by cheque, or by bank cheque, or by credit card (plus a surcharge of up to three percent (3.0%) of the Price), or by direct credit, or by any other method as agreed to between the Client and the Agent.
- 4.9 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

5. Delivery Of Goods

- 5.1 At the Agent's sole discretion delivery of the Goods shall take place when:
 - (a) the Client takes possession of the Goods at the Agent's address; or
 - (b) the Client takes possession of the Goods at the Client's nominated address (in the event that the Goods are delivered by the Agent or the Agent's nominated carrier).
- 5.2 At the Agent's sole discretion the costs of delivery are:
 - (a) in addition to the Price; or
 - (b) for the Client's account.
- 5.3 The Client shall ensure that:
 - (a) an authorised person is in attendance at the nominated address at the time of delivery. This person shall be required to sign the deliver docket to confirm the

Goods have been received. In the event the delivery site is unattended the Agent shall (at their sole discretion) either:

- (i) redeliver the Goods (and the Agent shall be entitled to charge a reasonable fee for redelivery); or
 - (ii) the delivery docket shall be signed by the Agent (or the Agent's carrier) on behalf of the Client, and the Client shall automatically accept full responsibility and risk for the Goods.
- (b) if required, the nominated site is cleared and ready for the installation of the Goods prior to delivery, and that the foundations and structure on/or to which the Goods are to be installed have adequate bearing and strength capacity to withstand and support all forces imposed upon them from the Goods.
 - (c) all electrical wiring within three (3) metres of the installation area are covered prior to commencement of the installation of the Goods.
 - (d) they obtain (at the expense of the Client) all licenses and approvals that may be required for the installation of the Goods.
 - (e) site amenities, that comply with WorkCover requirements are provided.
- 5.4 Delivery of the Goods to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
 - 5.5 The Agent may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
 - 5.6 The Client shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or lesser than the quantity purchased provided that:
 - (a) such discrepancy in quantity shall not exceed five percent (5%); and
 - (b) the Price shall be adjusted pro rata to the discrepancy.
 - 5.7 The failure of the Agent to deliver shall not entitle either party to treat this contract as repudiated.
 - 5.8 The Agent shall not be liable for any loss or damage whatsoever due to failure by the Agent to deliver the Goods (or any of them) promptly or at all, where due to circumstances beyond the control of the Agent.

6. Risk

- 6.1 If the Agent retains ownership of the Goods nonetheless, all risk for the Goods passes to the Client on delivery.
- 6.2 Where the Client expressly requests the Agent to leave Goods outside the Agent's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk and it shall be the Client's responsibility to ensure the Goods are insured adequately or at all.
- 6.3 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, the Agent is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Agent is sufficient evidence of the Agent's rights to receive the insurance proceeds without the need for any person dealing with the Agent to make further enquiries.

7. Title

- 7.1 The Agent and the Client agree that ownership of the Goods shall not pass until:
 - (a) the Client has paid the Agent all amounts owing for the particular Goods; and
 - (b) the Client has met all other obligations due by the Client to the Agent in respect of all contracts between the Agent and the Client.
- 7.2 Receipt by the Agent 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 the Agent's ownership or rights in respect of the Goods shall continue.
- 7.3 It is further agreed that:
 - (a) where practicable the Goods shall be kept separate and identifiable until the Agent shall have received payment and all other obligations of the Client are met; and
 - (b) until such time as ownership of the Goods shall pass from the Agent to the Client the Agent may give notice in writing to the Client to return the Goods or any of them to the Agent. Upon such notice the rights of the Client to obtain ownership or any other interest in the Goods shall cease; and
 - (c) the Agent shall have the right of stopping the Goods in transit whether or not delivery has been made; and
 - (d) if the Client fails to return the Goods to the Agent then the Agent or the Agent's agent may enter upon and into land and premises owned, occupied or used by the Client, or any premises as the invitee of the Client, where the Goods are situated and take possession of the Goods; and
 - (e) the Client is only a bailee of the Goods and until such time as the Agent has received payment in full for the Goods then the Client shall hold any proceeds from the sale or disposal of the Goods, up to and including the amount the Client owes to the Agent for the Goods, on trust for the Agent; and
 - (f) the Client shall not deal with the money of the Agent in any way which may be adverse to the Agent; and
 - (g) the Client shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of the Agent; and
 - (h) the Agent can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Client; and
 - (i) until such time that ownership in the Goods passes to the Client, if the Goods are converted into other products, the parties agree that the Agent will be the owner of the end products.

8. Defects

- 8.1 The Client shall inspect the Goods on delivery and shall within three (3) days of delivery (time being of the essence) notify the Agent of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford the Agent an opportunity to inspect the Goods within a reasonable time following delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which the Agent has agreed in writing that the Client is entitled to reject, the Agent's liability is limited to either (at the Agent's discretion) replacing the Goods or repairing the Goods except where the Client has acquired Goods as a consumer within the meaning of the Trade Practices Act 1974 (CW/It) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the purchase price of the Goods, or repair of the Goods, or replacement of the Goods.
- 8.2 Goods will not be accepted for return other than in accordance with 8.1 above.

9. Warranty

- 9.1 For Goods not manufactured by the Agent, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Agent shall not be

bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

10. Default & Consequences of Default

- 10.1 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 one half percent (2.5%) per calendar month (and at the Agent's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 10.2 In the event that the Client's payment is dishonoured for any reason the Client shall be liable for any dishonour fees incurred by the Agent.
- 10.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify the Agent from and against all costs and disbursements incurred by the Agent in pursuing the debt including legal costs on a solicitor and own client basis and the Agent's collection agency costs.
- 10.4 Without prejudice to any other remedies the Agent may have, if at any time the Client is in breach of any obligation (including those relating to payment), the Agent may suspend or terminate the supply of Goods to the Client and any of its other obligations under the terms and conditions. The Agent will not be liable to the Client for any loss or damage the Client suffers because the Agent has exercised its rights under this clause.
- 10.5 If any account remains overdue after thirty (30) days then an amount of the greater of twenty dollars (\$20.00) or ten percent (10%) of the amount overdue (up to a maximum of two hundred and fifty dollars (\$250.00)) shall be levied for administration fees which sum shall become immediately due and payable.
- 10.6 Without prejudice to the Agent's other remedies at law the Agent shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Agent shall, whether or not due for payment, become immediately payable in the event that:
 - (a) any money payable to the Agent becomes overdue, or in the Agent's opinion the Client will be unable to meet its payments as they fall due; or
 - (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.

11. Personal Properties Securities Act 2009

- 11.1 The Client hereby acknowledges that these Terms & Conditions of Trade constitute a security agreement which creates a security interest in favour of the Agent in all Goods previously supplied by the Agent to the Client (if any) and all after acquired Goods supplied by the Agent to the Client (or for the Client's account) to secure the payment from time to time and at a time, including future advances. The Client agrees to grant a "Purchase Money Security Interest" to the Agent.
- 11.2 The Client acknowledges and agrees that by assenting to these terms the Client grants a security interest (by virtue of the retention of title clause in these Terms & Conditions of Trade) to the Agent and all Goods previously supplied by the Agent to the Client (or for the Client's account) and these terms shall apply notwithstanding anything express or implied to the contrary contained in the Client's purchase order.
- 11.3 The Client undertakes to:
 - (a) sign any further documents and/or provide any further information (which information the Client warrants to be complete, accurate and up-to-date in all respects) which the Agent may reasonably require to enable registration of a financing statement or financing change statement on the Personal Property Securities Register ("PPSR");
 - (b) not register a financing change statement as defined in section 10 of the PPSA or make a demand to alter the financing statement pursuant to section 178 of the PPSA in respect of the Goods without the prior written consent of the Agent;
 - (c) give the Agent not less than 14 days' written notice of any proposed change in the Client's name and/or any other changes in the Client's details (including but not limited to changes in the Client's address, facsimile number, email address, trading name or business practice);
 - (d) pay all costs incurred by the Agent in registering and maintaining a financing statement (including registering a financing change statement) on the PPSR and/or enforcing or attempting to enforce the security interest created by these Terms & Conditions of Trade including executing subordination agreements;
 - (e) be responsible for the full costs incurred by the Agent (including actual legal fees and disbursements on a solicitor and client basis) in obtaining an order pursuant to section 182 of the PPSA; and
 - (f) the Client waives any rights it may have under sections 115 of the PPSA upon enforcement.
- 11.4 Pursuant to section 157 of the PPSA, unless otherwise agreed to in writing by the Agent, the Client waives the right to receive the verification statement in respect of any financing statement or financing change statement relating to the security interest.
- 11.5 The Client agrees that immediately on request by the Agent the Client will procure from any persons considered by the Agent to be relevant to its security position such agreement and waivers as the Agent may at any time require.

12. Security And Charge

- 12.1 Despite anything to the contrary contained herein or any other rights which the Agent may have howsoever:
 - (a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Agent or the Agent's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Client and/or the Guarantor acknowledge and agree that the Agent (or the Agent's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.
 - (b) should the Agent elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify the Agent from and against all the Agent's costs and disbursements including legal costs on a solicitor and own client basis.
 - (c) the Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Agent or the Agent's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 12.1.

13. Cancellation

- 13.1 The Agent may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice the Agent shall repay to the Client any sums paid in respect of the Price. The Agent shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 13.2 In the event that the Client cancels delivery of Goods the Client shall be liable for any loss incurred by the Agent (including, but not limited to, any loss of profits) up to the time of cancellation.
- 13.3 Cancellation of orders for Goods made to the Client's specifications or non-stocklist items will definitely not be accepted, once production has commenced.

14. Privacy Act 1988

- 14.1 The Client and/or the Guarantor/s agree for the Agent to obtain from a credit reporting agency a credit report containing personal credit information about the Client and Guarantor/s in relation to credit provided by the Agent.
- 14.2 The Client and/or the Guarantor/s agree that the Agent may exchange information about the Client and the Guarantor/s with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
 - (a) to assess an application by 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 credit worthiness of Client and/or Guarantor/s.
- 14.3 The Client consents to the Agent being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 14.4 The Client agrees that personal credit information provided may be used and retained by the Agent for the following purposes and for other purposes as shall be agreed between the Client and Agent or required by law from time to time:
 - (a) provision of Goods; and/or
 - (b) marketing of Goods by the Agent, its agents or distributors in relation to the Goods; and/or
 - (c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to provision of Goods; and/or
 - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Client; and/or
 - (e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Goods.
- 14.5 The Agent may give information about the Client to a credit reporting agency for the following purposes:
 - (a) to obtain a consumer credit report about the Client; and/or
 - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.

15. Building and Construction Industry Security of Payments Act 1999

- 15.1 At the Agent's sole discretion, if there are any disputes or claims for unpaid Goods and/or Services then the provisions of the Building and Construction Industry Security of Payments Act 1999 may apply.
- 15.2 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payments Act 1999 of New South Wales, except to the extent permitted by the Act where applicable.

16. General

- 16.1 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.
- 16.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales.
- 16.3 The Agent 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 the Agent of these terms and conditions.
- 16.4 In the event of any breach of this contract by the Agent the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Goods.
- 16.5 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 the Agent nor to withhold payment of any invoice because part of that invoice is in dispute.
- 16.6 The Agent may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 16.7 The Client agrees that the Agent may review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Agent notifies the Client of such change.
- 16.8 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.
- 16.9 The failure by the Agent to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Agent's right to subsequently enforce that provision.