

1. Definitions

- 1.1 “PPL” shall mean Provincial Investment Holdings Pty Ltd T/A Provincial Plants & Landscapes its successors and assigns or any person acting on behalf of and with the authority of Provincial Investment Holdings Pty Ltd T/A Provincial Plants & Landscapes.
- 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 PPL 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 PPL 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 PPL to the Client.
- 1.5 “Services” shall mean all Services supplied by PPL 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 PPL 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 PPL from the Client for the supply of Goods and/or the Client’s acceptance of Goods supplied by PPL shall constitute acceptance of the terms and conditions contained herein.
- 3.2 All works will be carried out by PPL between the hours of seven am (7am) to five pm (5pm) Monday to Friday. The Client shall be liable for any and all costs incurred with works required to be undertaken outside of these hours.
- 3.3 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 3.4 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 PPL.
- 3.5 The Client shall give PPL 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 PPL as a result of the Client’s failure to comply with this clause.
- 3.6 Goods are supplied by PPL 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.
- 3.7 These terms and conditions are meant to be read in conjunction with the Terms and Conditions contained in the Fee Schedule and Acknowledgement of Terms. If there are any inconsistencies between the two documents then the terms and conditions contained in this document shall prevail.

4. Price And Payment

- 4.1 At PPL’s sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by PPL to the Client in respect of Goods supplied; or
 - (b) PPL’s quoted Price (subject to clause 4.3) which shall be binding upon PPL provided that the Client shall accept PPL’s quotation in writing within thirty (30) days; or
- 4.2 PPL’s estimated Price (subject to clause 4.2) that the Client shall accept in writing within thirty (30) days. This is an estimated Price and the final Price will only be ascertained upon completion of the works. Variances to the estimated price in excess of 10% are subject to client approval before the works commence.
- 4.3 PPL reserves the right to change the Price in the event of a variation to PPL’s quotation or estimate. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation as a result of increases to PPL in the cost of materials and labour, or any required printing, or in relation to any scheduling or re-scheduling, or as a result of any loading requirements or delivery times or sites or changes to the design) will be charged for on the basis of PPL’s quotation or estimate and will be shown as variations on the invoice. A twenty percent (20%) fee may be charged in the event that PPL are required to furnish labour and/or materials as a result of a variation that were not provided for in the quotation or estimate Price. Payment for all variations must be made in full at their time of completion.
- 4.4 PPL may submit a detailed payment claim at intervals not less than one week for work performed up to the end of each week. The value of work so performed shall include the reasonable value of authorised variations and the value of materials delivered to the site but not yet installed.
- 4.5 At PPL’s sole discretion a twenty percent (20%) non-refundable deposit may be required on orders over five thousand dollars (\$5000). Tray deposits of two dollars (\$2) per cell tray and three dollars (\$3) per hiko tube tray apply. These are fully refundable on return. Prior arrangement can be made to list trays on the Tray Deposit Register and return trays within three (3) weeks to avoid incurring the deposit charge.
- 4.6 A twenty percent (20%) non-refundable deposit on orders over five thousand dollars (\$5000) at PPL’s sole discretion shall apply.
- 4.7 At PPL’s sole discretion:
 - (a) payment shall be due on delivery of the Goods, or completion of the Services, or receipt of the invoice; or
 - (b) payment for approved Clients shall be made by instalments in accordance with PPL’s payment schedule; or
 - (c) payment for approved Clients shall be due thirty (30) following the date of the invoice.

- 4.8 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 seven (7) days following the date of the invoice. A fee breakdown will be provided with the invoice.
- 4.9 Payment will be made by cash, or by cheque, or by bank cheque, or by credit card (may include a surcharge of up to two and one half percent (2.5%) of the Price), or by direct credit, or by any other method as agreed to between the Client and PPL.
- 4.10 The Client acknowledges and agrees that any costs incurred by PPL for the printing of drawings, shall be invoiced to the Client as a variation as per clause 4.2, and shall become due and payable immediately.
- 4.11 The Client acknowledges and agrees that any post completion services, or any further drawings or site visits will be charged to the Client at one hundred and fifty dollars (\$150) per hour.
- 4.12 The estimated or quoted Price does not include possible expenses or damage arising from hidden or unknown contingencies at the job site (latent conditions).
- 4.13 The estimated or quoted Price is subject to availability of goods at the time of placement of order. Advice of lead times will be given upon ordering.
- 4.14 A purchase order is required to secure Goods and Services.
- 4.15 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.
- 4.16 PPL will co-ordinate and integrate the estimates of any consultants or contractors used to undertake the job and will provide the client with one invoice for all trades payable to PPL.

5. Delivery Of Goods

- 5.1 Confirmation of supply date is required 3 working days in advance.
- 5.2 Any order can be placed on hold for a period of one (1) week, after which PPL shall not guarantee the availability of the Goods allocated to that order.
- 5.3 At PPL's sole discretion delivery of the Goods shall take place when:
 - (a) the Client takes possession of the Goods at PPL'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 PPL or PPL's nominated carrier).
- 5.4 At PPL's sole discretion, any costs of delivery shall be in addition to the Price and will be stated on the invoice.
- 5.5 Delivery by PPL (or PPL's nominated carrier) shall occur Monday to Friday, and any delivery charges shall be calculated by weight, measurement, value, quantity or travelling distance. This shall be advised to the Client prior to delivery and added to the invoice.
- 5.6 Any delivery date stated by PPL is an estimate only, and the final delivery date is at the discretion of PPL's nominated carrier.
- 5.7 Goods will be delivered to the roadside of the delivery site in the case of bulk Goods. 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. If at the Client's request, the delivery vehicle leaves the road and enters the delivery site to unload, the Client is responsible for providing suitable and safe access for the delivery vehicle and agrees to indemnify PPL (or its nominated carrier) and its agents for all damage and injury to any person and to any public or private property which may result, including any costs associated with enabling the delivery vehicle to leave the site.
- 5.8 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.
- 5.9 PPL 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.
- 5.10 The Client acknowledges and agrees that the required delivery date and any special instructions must be advised to PPL within seven (7) days of the required delivery date.
- 5.11 The failure of PPL to deliver shall not entitle either party to treat this contract as repudiated.
- 5.12 PPL shall not be liable for any loss or damage whatsoever due to failure by PPL to deliver the Goods (or any of them) promptly or at all, where due to circumstances beyond the control of PPL.

6. Risk

- 6.1 If PPL retains ownership of the Goods nonetheless, all risk for the Goods passes to the Client on at the time when the Goods have been placed on the delivery vehicle for delivery.
- 6.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, PPL is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by PPL is sufficient evidence of PPL's rights to receive the insurance proceeds without the need for any person dealing with PPL to make further enquiries.
- 6.3 It is the intention of PPL and agreed by the Client, that it is the responsibility of the Client to provide any heavy lifting equipment (including, but not limited to, forklifts), where required, and the Client shall be responsible for any costs incurred in doing so.
- 6.4 Paver pallets may be moved by pallet jack and require a flat and even surface without any obstacles. Although the Client is entitled to negotiate the preferred location for placement of the pavers directly with the driver at time of delivery, it is at the sole discretion of PPL (or their nominated carrier) as to the final location of paver pallets, and neither PPL nor the carrier shall be liable for any loss, damages, or costs however arising from placement of the pavers.
- 6.5 The Client acknowledges and agrees that all maison paver products are well wrapped and packaged, and that PPL makes every effort to take the best possible care during packaging and delivery, however due to the nature of the Goods breakages are expected. PPL recommends that when placing orders the Client should request a further three to five percent (3%-5%) to allow for these expected breakages. 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.
- 6.6 It is the responsibility of the Client to dispose or discard of any pallets received in delivery. These can be recycled at PPLs address, at the cost of the Client, including freight charges.
- 6.7 In the event that PPL is required to travel outside the metro area to deliver the Goods or complete the Services, then the Client will be responsible for any travel costs incurred by PPL, all such costs will be shown as an extra on the invoice.
- 6.8 In the event that PPL is required to stay close to the worksite overnight in order to deliver the Goods or complete the Services, then the Client will be responsible for any accommodation costs (including, but not limited to, the cost of any meals) incurred by PPL, all such costs will be shown as an extra on the invoice.
- 6.9 The Client acknowledges and agrees that they are responsible for any required submissions to the local authorities, unless prior agreed between the Client and PPL.
- 6.10 It is the Client's responsibility to advise the scope of the Service required within stages one (1) to six (6) as detailed in the Fee Schedule and Acknowledgement of Terms for site visits and landscape design services.
- 6.11 Prices given in stages one (1) to six (6) in the Fee Schedule and Acknowledgment of Terms for site visits and landscape design services, are guides only and the final Price depends on the scale and scope of the Works required. This is an estimated Price and the final Price will only be ascertained upon completion of the Works. Variances to the estimated price in excess of 10% are subject to client approval before the works commence.
- 7. Maison Reconstituted Sandstone Paving Products, Pots and Décor**
- 7.1 The Client acknowledges and agrees that payment for these products is required in full three (3) days prior to dispatch, and the deposit (if applicable) shall be due upon placement of order, or acceptance of quotation.
- 7.2 The minimum paving order is twenty metres squared (20m²), any orders directly requested by the Client for less than twenty metres squared (20m²) will incur a twenty-five dollar (\$25) packing charge. All quoted Prices are based on full pallets (ten metres squared (10m²) of pavers per pallet, or forty (40) pieces of five hundred millimetres (500mm) times five hundred millimetres (500mm) times fifty millimetres (50mm) and thirty (30) pieces of six hundred millimetres (600mm) times six hundred millimetres (600mm) times fifty millimetres (50mm)), any orders directly requested by the Client for less than a full pallet will incur additional charges for individual packing.
- 7.3 A twenty percent (20%) non-refundable deposit on Maison orders, garden décor, and orders sourced from interstate offices and container forward orders. Maison pallet orders will be held free of charge for two (2) weeks (upon arrival in Canberra from Adelaide). After this, pallet storage will incur a charge of ten dollars (\$10) per pallet per week.
- 7.4 The Client acknowledges that Maison products and our decorative pot range are hand made; therefore Goods supplied may exhibit variations in shade, colour, texture, surface and finish, and may fade or change colour over time with direct exposure to sun and weather. Sizes and weights are also approximates only and due to the inherent nature of the material, variations during processing may occur. PPL will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.
- 7.5 Placement of pot or garden décor is the responsibility of the Client unless prior arrangement has been made with PPL or their nominated carrier.
- 8. Plants and Planting**
- 8.1 The quotation or wholesale Price is based on the purchase of full trays in minimum numbers, (one hundred and twenty-eight (128) or two hundred (200) cells per tray or forty (40) tubes per hiko tray or twenty times one hundred and forty millimetres (140mm) or two hundred millimetre (200mm) pot sizes. In the event that the Client requests trays to be broken up, species to be combined or individual plants are required then the Price will increase to cover the cost of handling.
- 8.2 A twenty percent (20%) non-refundable deposit on orders over five thousand dollars (\$5000) at PPL's sole discretion shall apply. Upon ordering plants that are in stock, these plants will be held for four (4) weeks, free of charge. After this period, holding fees of ten cents (\$.10c) per one hundred and forty millimetres (140mm) and two hundred millimetre (200mm) pot, five cents (\$0.5c) per hiko tube and three cents (\$0.3c) per cell will be charged per plant, per four (4) week period. Advanced trees in pot sizes twenty five litres (25L) to sixty litres (60L) are held over at six dollars (\$6) per tree per four (4) week period.
- 8.3 All contract and pre-grow orders require a twenty percent (20%) deposit to commence plant propagation. These contract grown plants will be held for nine (9) months following propagation free of charge after which holding fees as detailed in clause 8.2 shall apply.
- 8.4 Prices do not include watering in nor cost of water required. The client is liable for all costs associated with the maintenance of a project up to practical completion unless PPL undertakes a contract to do so.
- 8.5 All plants are supplied by Provincial are hardened off. Where plants are sourced from external suppliers, PPL accepts no responsibility for the hardening of plants.
- 8.6 Prices include supply and installation of water crystals and slow release fertiliser.
- 8.7 Planting Prices are based on suitable site preparation including: level access; non compacted soils; prepared beds, ripped to three hundred millimetre (300mm) depth, and top soiled; mulch to a maximum of 75mm; direct drilling into mulch without necessity for handling. Planting price will be reviewed if site conditions vary upon inspection.
- 8.8 Price does not include allowance for removal of rock exposed during excavation works. Rock removal will be quoted and are subject to client approval pre works.
- 8.9 The client acknowledges and agrees that while all care is taken, it is not in our control to be able to supply or produce totally weed free soil or mulch.
- 8.10 PPL have made no allowance for any water restrictions that could arise from time to time during the works.

8.11 PPL take no responsibility for the realigning and adjustment of existing services including but not limited to underground gas, water, telephone, electrical services, service pits and manholes.

9. Access

9.1 The Client shall ensure that PPL has clear and free access to deliver the Goods at all times to enable them to undertake the delivery. PPL shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of PPL.

10. Underground Locations

10.1 Prior to PPL commencing any work the Client must advise PPL of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site.

10.2 Whilst PPL will take all care to avoid damage to any underground services the Client agrees to indemnify PPL in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 10.1.

11. Title

11.1 PPL and the Client agree that ownership of the Goods shall not pass until:

- (a) the Client has paid PPL all amounts owing for the particular Goods; and
- (b) the Client has met all other obligations due by the Client to PPL in respect of all contracts between PPL and the Client.

11.2 Receipt by PPL 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 PPL's ownership or rights in respect of the Goods shall continue.

11.3 It is further agreed that:

- (a) where practicable the Goods shall be kept separate and identifiable until PPL 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 PPL to the Client PPL may give notice in writing to the Client to return the Goods or any of them to PPL. Upon such notice the rights of the Client to obtain ownership or any other interest in the Goods shall cease; and
- (c) PPL 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 PPL then PPL or PPL'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 PPL 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 PPL for the Goods, on trust for PPL; and
- (f) the Client shall not deal with the money of PPL in any way which may be adverse to PPL; 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 PPL; and
- (h) PPL 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 PPL will be the owner of the end products.

12. Defects

12.1 The Client shall inspect the Goods on delivery and shall within twenty-four (24) hours of delivery (time being of the essence) notify PPL of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford PPL 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 PPL has agreed in writing that the Client is entitled to reject, PPL's liability is limited to either (at PPL'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 (CWlth) 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. The original tax invoice must be returned with the order and the Goods must be returned in their original condition. PPL is not responsible or liable for the freight delivery costs, costs of return freight or cost of freight for products that have been relocated from the place of delivery.

12.2 Goods will not be accepted for return other than in accordance with 12.1 above.

13. Warranty

13.1 For Goods not manufactured by PPL, the warranty shall be the current warranty provided by the manufacturer of the Goods. PPL 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.

13.2 To the extent permitted by statute, no warranty is given by PPL as to the quality or suitability of the Goods for any purpose and any implied warranty, is expressly excluded. PPL shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.

14. Intellectual Property

- 14.1 Where PPL has designed, drawn or written Goods for the Client, then the copyright in those designs and drawings and documents shall remain vested in PPL, and shall only be used by the Client at PPL's discretion.
- 14.2 The Client warrants that all designs or instructions to PPL will not cause PPL to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify PPL against any action taken by a third party against PPL in respect of any such infringement.
- 14.3 The Client hereby authorises PPL to utilise images of the Goods designed or drawn by PPL in advertising, marketing, or competition material by PPL.

15. Default & Consequences of Default

- 15.1 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 PPL's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 15.2 In the event that the Client's payment is dishonoured for any reason the Client shall be liable for any dishonour fees incurred by PPL.
- 15.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify PPL from and against all costs and disbursements incurred by PPL in pursuing the debt including legal costs on a solicitor and own client basis and PPL's collection agency costs.
- 15.4 Without prejudice to any other remedies PPL may have, if at any time the Client is in breach of any obligation (including those relating to payment) PPL may suspend or terminate the supply of Goods to the Client and any of its other obligations under the terms and conditions. PPL will not be liable to the Client for any loss or damage the Client suffers because PPL has exercised its rights under this clause.
- 15.5 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 dollars (\$200.00)) shall be levied for administration fees which sum shall become immediately due and payable.
- 15.6 Without prejudice to PPL's other remedies at law PPL shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to PPL shall, whether or not due for payment, become immediately payable in the event that:
 - (a) any money payable to PPL becomes overdue, or in PPL'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.

16. Security And Charge

- 16.1 Despite anything to the contrary contained herein or any other rights which PPL 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 PPL or PPL'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 PPL (or PPL'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 PPL elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify PPL from and against all PPL'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 PPL or PPL'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 16.1.

17. Dispute Resolution

- 17.1 If a dispute arises between the parties to this contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:
 - (a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and
 - (b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

18. Compliance with Laws

- 18.1 The Client and PPL shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the works.
- 18.2 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the works.
- 18.3 The Client agrees that the site will comply with any occupational health and safety laws relating to building/construction/landscaping/re-vegetation sites and any other relevant safety standards or legislation.

19. Cancellation

- 19.1 PPL 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 PPL shall repay to the

Client any sums paid in respect of the Price. PPL shall not be liable for any loss or damage whatsoever arising from such cancellation.

- 19.2 In the event that the Client cancels delivery of Goods the Client must advise PPL within seventy-two (72) hours of delivery or the Client shall be liable for any loss incurred by PPL (including, but not limited to, any loss of profits) up to the time of cancellation, or a fifty dollar (\$50) cancellation charge.
- 19.3 In the event that the Client postpones delivery of Goods the Client must advise PPL within seventy-two (72) hours of delivery, and the Client shall be liable for any loss incurred by PPL (including, but not limited to, any loss of profits) up to the time of postponement.
- 19.4 Cancellation of orders for Goods made to the Client's specifications or non-stocklist items will definitely not be accepted, once production has commenced, and the Client will be liable for any and all costs incurred by PPL for the specific purchase order.

20. Privacy Act 1988

- 20.1 The Client and/or the Guarantor/s agree for PPL 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 PPL.
- 20.2 The Client and/or the Guarantor/s agree that PPL 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.
- 20.3 The Client consents to PPL being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 20.4 The Client agrees that personal credit information provided may be used and retained by PPL for the following purposes and for other purposes as shall be agreed between the Client and PPL or required by law from time to time:
- (a) provision of Goods; and/or
 - (b) marketing of Goods by PPL, 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.
- 20.5 PPL 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.

21. Building and Construction Industry Security of Payments Act 1999

- 21.1 At PPL'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.
- 21.2 Nothing in this agreement is intended to have the affect 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.

22. General

- 22.1 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.
- 22.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the State the sale is made and are subject to the jurisdiction of the courts of that State.
- 22.3 PPL 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 PPL of these terms and conditions.
- 22.4 In the event of any breach of this contract by PPL the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Goods.
- 22.5 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 PPL nor to withhold payment of any invoice because part of that invoice is in dispute.
- 22.6 PPL may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 22.7 The Client agrees that PPL 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 PPL notifies the Client of such change.
- 22.8 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.
- 22.9 The failure by PPL to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect PPL's right to subsequently enforce that provision.