

## AUSTRALIAN CONSTRUCTION PRODUCTS GENERAL TERMS AND CONDITIONS

### 1. INTERPRETATION

#### (1) Definitions

In these Conditions, unless the context requires otherwise:

“ACP” means Australian Construction Products Pty Ltd ACN 091 618 781 including its employees, contractors, partners and/or agents.

“Anti-Corruption Laws” means any law prohibiting or relating to bribery, corruption, kickbacks, secret commissions or money laundering including the *Foreign Corrupt Practices Act 1977* (US), *Bribery Act 2010* (UK), *Criminal Code Act 1995* (Cth) and any anti-corruption regulations and provisions applicable in the European Union or in any other locations in which any member of the Fletcher Group carries on business.

“Australian Consumer Law” means the Australian Consumer Law in the *Competition and Consumer Act 2010* (Cth).

“Conditions” means the ACP General Terms and Conditions.

“Consumer” means a consumer as that term is defined in the Australian Consumer Law.

“Consumer Contract” means a contract for the supply of products or services to an individual whose acquisition of the products or services is wholly or predominantly for personal, domestic or household use or consumption. However, if the relevant parts of the definition of ‘Consumer Contract’ under the Australian Consumer Law are amended at any time, this definition is also amended accordingly.

“Contract” has the meaning given to that term in clause 2(1).

“Credit Terms” means the credit application and terms of the credit agreement between ACP and the Customer.

“Customer” means the person to whom the products and services are supplied.

“Fletcher Group” means Fletcher Building Limited (ARBN 096 046 936) and its related bodies corporate (as that term is defined in the *Corporations Act 2001* (Cth)).

“Force Majeure Event” means any event outside a party’s reasonable control including acts of God, declared or undeclared war, act of terrorism, fire, flood, storm, earthquake, hurricane, cyclone, riot, power failure, industrial action, defaults of manufacturers or suppliers, the inability to obtain equipment, supplies or other facilities that are not caused by a failure to pay, labour disputes, theft, any criminal act or other similar events beyond a party’s control that may prevent or delay a party from performing their obligations under any Contract.

“Insolvency Event” means:

- (a) a receiver, receiver and manager, liquidator, administrator, or similar official is appointed in respect of the Customer or any of its property, or any security over any substantial part of its assets is enforced;
- (b) ceases to carry on all or substantially all of its business, is unable to pay its debts when due, or is deemed unable to pay its debts under any law, or makes an assignment for the benefit of, or enters into or makes any arrangement or compromise with, its creditors or threatens to do so, or stops payments to its creditors generally;
- (c) the Customer is, becomes, or is deemed to be insolvent or bankrupt; and
- (d) if the Customer is an individual, anything having a similar effect to any of the events specified above happens.

“Interest Rate” means the rate of 8% above the cash rate last published by the Reserve Bank of Australia (as at the due date).

“Personal Information” has the meaning given to that term by the Privacy Law and includes, where relevant, credit information and credit eligibility information defined in the Privacy Law.

“PPSA” means the *Personal Property Securities Act 2009* (Cth);

“PPSR” means the Personal Property Securities Register established by the PPSA;

“Privacy Law” means the *Privacy Act 1988* (Cth) and any legislation from time to time in force which affects privacy rights or Personal Information and any rules, regulations, guidelines or orders issued under the legislation, including the Privacy (Credit Reporting) Code.

“PMSI” means a purchase money security interest as that term is defined in the PPSA.

“Security Interest” has the meaning given to that term in the PPSA.

“Small Business Contract” means a contract where:

- (a) at the time the contract is entered into, at least one party to the contract is a business that employs fewer than 20 persons; and

- (b) either of the following applies:
  - (i) the upfront price payable under the contract does not exceed \$300,000; or
  - (ii) the contract has a duration of more than 12 months and the upfront price payable under the contract does not exceed \$1,000,000.

However, if the definition of 'Small Business Contract' under the Australian Consumer Law is amended at any time, this definition is also amended accordingly.

## **(2) Interpretation**

In these Conditions:

- (a) A reference to a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person.
- (b) A reference to a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it.
- (c) The word "including" means including without limitation.

## **2. CONTRACT & QUOTES**

- (1) The contract between the Customer and ACP is constituted by: (i) the Conditions; (ii) the Credit Terms; and (iii) the extent to which ACP accepts an order in accordance with clause 6(1) (each a "Contract"). The Conditions, the Credit Terms and the extent to which ACP accepts the order govern all contracts for the supply of products by ACP to the Customer and constitute the entire agreement in connection with the supply of products between ACP and the Customer. No modification or variation to the Conditions or the Credit Terms, any additional terms or conditions or any terms inconsistent with the Conditions or the Credit Terms provided by the Customer (whether put forward in the order, the Customer's specification or otherwise) will bind ACP, unless expressly and specifically agreed to in writing by ACP. The Conditions and the Credit Terms supersede all previous written agreements or terms and conditions which have previously governed a contract for the supply of products by ACP to the Customer.
- (2) A quotation will not constitute an offer to sell products or services to the Customer. No contract for the supply of products or services will exist between ACP and the Customer until a Customer's order for products or services has been accepted by ACP (such acceptance of the Customer's orders may be made and communicated by ACP in writing or by overt act of acceptance). The Customer will be under no obligation to place an order with ACP. ACP may accept or refuse any order for products or services in its absolute discretion and may make its acceptance of an order conditional upon it receiving a satisfactory credit assessment of the Customer.

## **3. PRICE**

- (1) Unless otherwise expressly agreed in writing, the amount payable for products and services will be ACP's list price at the date of delivery or collection. The price is exclusive of any freight charges, customs duty, GST or similar taxes, which the Customer will pay in addition to the price at the same time and in the same manner as the price.
- (2) Unless otherwise stated in the Conditions, ACP may vary the price to reflect any change in costs, taxes or duties incurred by ACP. Any such variation in price will only be applicable to orders not yet accepted by ACP.
- (3) ACP will be entitled to set off against any money owing to the Customer amounts owed to ACP by the Customer on any account whatsoever. The Customer must not assert any right of set off against ACP and will pay all amounts owing to ACP without deduction.

## **4. VARIATIONS TO SCOPE OF CONTRACT**

- (1) If ACP's price list does not apply, the price is based on:
  - (a) the scope of the work as detailed in the information provided by the Customer to ACP for the purpose of a Contract including, where applicable, plans, specifications (including standards and finish), schedules and nominated quantities; and
  - (b) the delivery arrangements in accordance with clause 6.

- (2) Any variations to the scope of the work or delivery arrangements will be a variation to the Contract entitling ACP to vary the price stated.
- (3) ACP may vary the Conditions or Credit Terms by notice in writing to the Customer. If the Contract is a Consumer Contract or a Small Business Contract, then the Customer may consider the variation and, if not acceptable, may elect not to proceed with the purchase of the products or services ordered before the date of the variation but which are intended to be subject to the variation. If the Contract is not a Consumer Contract or a Small Business Contract, the Customer agrees that products delivered and services performed and/or ordered after the date of the notice of the variation will be subject to the variation and acceptance of the products or services or the placing of the order will be deemed to be an acceptance of such varied terms and conditions.

## **5. PAYMENT**

- (1) The amount due includes the price, any variations to the price and any additional charges which ACP is entitled to make.
- (2) Subject to the Conditions, the Customer will pay the amount due in accordance with the Credit Terms.
- (3) Where no credit arrangements have been authorised or previously agreed by ACP, but credit has been agreed by ACP as a condition of a particular Contract, the Customer will pay the amount due within the month following the month of delivery or collection of the products or the provision of the services.
- (4) Where no credit arrangements have been authorised or agreed by ACP and the products are delivered within Australia, the Customer will pay the amount due before the first delivery of the products.
- (5) Where the products are to be delivered outside of Australia:
  - (a) terms of payment (unless otherwise agreed in writing) will be by means of irrevocable letter of credit established in ACP's name with a bank of its nomination;
  - (b) ACP will be entitled to payment in full for the products covered by shipping documents, consisting of proper bills of lading, invoices and, in the case of C.I.F sales, negotiable insurance certificates, or a certificate of manufacture if the sale is made on such basis, upon ACP tendering those documents to the Customer or the Customer's authorised agent;
  - (c) if the products are ready for shipment but the Customer is unable for any reason to accept delivery or ACP is unable to obtain proper shipping documents for a period of 30 days because of a lack of transportation, non-insurability of the shipment or government regulations (Australia or any other country) ACP may terminate this agreement or become entitled to payment upon tender to the Customer, or its authorised agent, of the certificate of manufacture.
- (6) Payment for all the products and services supplied will become immediately due and payable, regardless of the credit arrangement authorised by ACP, if:
  - (a) an amount due remains unpaid as at the due date; or
  - (b) an Insolvency Event occurs.
- (7) If the Customer does not pay ACP by the due date, the Customer will pay interest on monies due, charged on a daily basis at the Interest Rate from the due date for payment until the actual date of payment. If the Customer has an account with ACP, ACP may debit the Customer's account monthly or at such other times it chooses for such interest and it will be payable together with the overdue amount. The parties agree that any such interest is a genuine pre-estimate of the loss that will be suffered by ACP for late payment.
- (8) The Customer will pay all ACP's expenses of collection of overdue monies and enforcement of any Contract on a full indemnity basis. Such expenses include collection fees and/or commission, agent's fees and legal fees.
- (9) Where the price is stated on a volumetric basis, payment will be based on measurement of the volume of product as loaded by ACP for delivery.

## **6. ORDERS AND DELIVERY**

- (1) All orders for products are subject to acceptance by ACP. ACP may accept or decline, in whole or in part, any order. Acceptance may be in writing or by ACP delivering or making products available for collection (whichever occurs first). Acceptance of an order by ACP gives rise to a Contract.

- (2) Acceptance of orders involving import and export conditions will be subject to ACP being furnished with evidence satisfactory to ACP that all requisite licences and permits have been granted and that all other government prerequisites (both Australian and countries of destination) have been complied with. If such evidence is not furnished within 30 days from the date of acceptance of an order, the order will be subject to cancellation by ACP.
- (3) Subject to clause 6(4) delivery will be on reasonable notice from the Customer to ACP and the Customer will not be relieved from any obligation to accept or pay for products by reason of any delay in delivery.
- (4) Where a Contract includes a delivery schedule delivery will be in accordance with the dates and other information contained in such delivery schedule.
- (5) Any times quoted for delivery are estimates only and ACP will not be liable for any failure to deliver or delay in delivery of products or performance of services arising from any cause whatsoever whether or not beyond the control of ACP.
- (6) If the Customer refuses or denies delivery, the Customer must still pay for products or services as set out in clause 5. The Customer must also pay any additional storage, freight, holding or handling charges incurred by ACP.
- (7) ACP may deliver products by instalments and failure to deliver any instalment will not entitle the Customer to terminate a Contract in whole or in part.
- (8) Deliveries are subject to suitable access, firm standing, storage, unloading and manoeuvring space, as determined by ACP. ACP will not be liable for, and the Customer will indemnify ACP against any claims for, damage caused to access ways, storage areas, plant, equipment or works during delivery except to the extent ACP has been negligent or breached the Law or the Contract.
- (9) Additional costs incurred by ACP in delivering or unloading the products in the following circumstances will be at the Customer's expense:
  - (a) outside the hours of 7.30a.m. to 4.00p.m. weekdays (excluding public holidays);
  - (b) due to delays at the site or an unsuitable site; or
  - (c) where less than full truckloads are required.
- (10) The Customer warrants that its receivable facilities and equipment are suitable for deliveries and meet all relevant standards, laws and regulations. The Customer indemnifies ACP against any breach of such standards, laws or regulations during delivery, and against any damage or loss caused by leakage, spillage, breakage or contamination during or caused by delivery except to the extent ACP has been negligent or breached the Law or the Contract.

## **7. ORDER CANCELLATION**

Without limiting any statutory entitlement of a Consumer to rescind a Contract or any right to do so under the Conditions, any order may only be cancelled, varied or suspended with the written consent of ACP and in the event of such cancellation, variation or suspension, the Customer undertakes to reimburse and indemnify ACP for any costs, expenses or charges incurred by ACP in preparation for, and in the execution of, an order for products or services that will no longer be supplied to the Customer as a result of the cancellation, variation or suspension.

## **8. RISK, TITLE & PERSONAL PROPERTY SECURITIES ACT**

- (1) Risk in the products passes on delivery and, in the event of a site being unattended, the delivery docket/manifest signed by the cartage contractor will be evidence of delivery of the products.
- (2) Legal and equitable title in the products will not pass to the Customer until payment in full for all debts accrued or owed by the Customer to ACP has been received by ACP in cleared funds.
- (3) Until ACP receives payment for the products in full, ACP retains:
  - (a) the legal and equitable ownership of the products;
  - (b) the right to enter upon the Customer's premises and retake possession of the products;
  - (c) the right to keep or resell any products repossessed under clause 8.3(b); and
  - (d) any other rights ACP may have at law or under the PPSA.
- (4) Until ACP receives payment for the products in full, the Customer acknowledges that:
  - (a) ACP has a PMSI which attaches over the products and their proceeds and a Security Interest in relation to other amounts owed by the Customer to ACP;
  - (b) ACP may register its PMSI and Security Interest on the PPSR and, where necessary, amend the registration; and

- (c) it will be liable for ACP's costs of registration of its PMSI and Security Interest on the PPSR.
- (5) The Customer undertakes to do anything (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed) which ACP asks and consider necessary for the purposes of:
  - (a) ensuring that a security interest created under the Conditions or any Contract is enforceable, perfected and otherwise effective;
  - (b) enabling ACP to apply for any registration, or give any notification, in connection with a security interest created under the Conditions or any Contract so that the security interest has the priority required by ACP, including anything ACP asks the Customer to do in connection with the PPSA.
- (6) The Customer must not grant any other person a security interest over the products or their proceeds.
- (7) To the extent permitted by law, if the PPSA applies, the Customer irrevocably waives its rights it may have to:
  - (a) receive notices or statements under sections 95, 118, 121(4), 129, 130, 132(2), 132(4) and 135(2) of the PPSA;
  - (b) redeem the products under section 142 of the PPSA;
  - (c) reinstate any Contract under section 143 of the PPSA; or
  - (d) receive a verification statement as defined in the PPSA.
- (8) Nothing in this clause 8 prevents ACP from taking action against the Customer for the purchase price of the products.
- (9) Until title in the products passes to the Customer and without prejudice to ACP's rights under the PPSA:
  - (a) the Customer may use the products with or in other items on condition that the final commodity will be ACP's property as a security for full payment for the products;
  - (b) until the Customer uses or sells the products, the Customer must store them separately so that they are clearly identifiable as ACP's property;
  - (c) the Customer may fix the products into the articles belonging to any other person on condition that the resulting item is owned in common by ACP and that other person.
  - (d) the Customer may sell the products in the ordinary course of the Customer's business on the following conditions:
    - (i) the Customer makes the sale as ACP's agent and bailee;
    - (ii) any proceeds of sale received by the Customer are held by the Customer on trust for ACP to the extent that the proceeds of sale relate to ACP's products which are incorporated into the final commodity or item;
    - (iii) the Customer must keep ACP's proportion of the proceeds of sale separately and so that they are clearly identifiable as belonging to ACP;
    - (iv) if the Customer has not received the proceeds of sale, it will, if ACP requires, transfer to ACP the Customer's rights in respect of the sale price.

## **9. DEFAULT**

if:

- (1) ACP has any reasonable grounds to believe that the Customer may not be able to make due and punctual payment to ACP of any monies owing by the Customer or there is any default or failure by the Customer in making such payments;
- (2) the Customer fails to take delivery of any products;
- (3) the Customer suffers an Insolvency Event;
- (4) there is a material breach by the Customer of any Contract or agreement between the Customer and any other member of the Fletcher Group; or
- (5) contractual performance by either ACP or the Customer is delayed or prevented due to any Force Majeure Event;

then:

- (6) all monies payable by the Customer to ACP may, at ACP's election, become immediately due and payable notwithstanding the due date for payment may not have expired;
- (7) ACP may, without prejudice to any other rights it may have, do any or all of the following:
  - (a) suspend or withdraw any credit facilities which may have been extended to the Customer;
  - (b) immediately terminate or suspend the whole or any outstanding part of any Contract;

- (c) in respect of products already delivered, and which title has not passed to the Customer, enter onto the Customer's premises to recover and resell the products for its own benefit;
- (d) recover from the Customer the cost of materials or products acquired for the purpose of future deliveries of products;
- (e) exercise such rights as are afforded to ACP under the PPSA; and
- (f) register a default with any credit reference facility.

#### **10. SPECIFICATIONS**

- (1) Where ACP manufactures or supplies products according to the Customer's specifications:
  - (a) ACP does not warrant the suitability or performance of the product; and
  - (b) the Customer must provide to ACP accurate information sufficient to enable ACP to provide the products specified and the Customer warrants to ACP that the information and any products to be manufactured by ACP under any Contract do not breach any copyright, registered design, patent or other right of any third party and the Customer will indemnify ACP in relation to any such breach.
- (2) Unless otherwise stated in the Conditions the products will be in conformity with a standard determined by ACP.

#### **11. DEFECTS**

- (1) The Customer will ensure it has an authorised representative at the delivery site to check prior to unloading that the information shown on the delivery docket corresponds with the Customer's order. Unless otherwise noted on the delivery docket, the signature of the Customer's representative on the delivery docket will represent acknowledgment by the Customer that the products comply with its order and have been supplied in accordance with the Conditions.
- (2) If the Customer is not a Consumer, notice of any defects will be given to ACP in writing on the delivery docket / receipt / manifest signed by the Customer and immediately returned with the cartage contractor. Where the point of delivery or collection is unattended, the Customer will give notice in writing to ACP, within 24 hours from the time of delivery or collection and prior to installation, of any defects in the products.
- (3) If notice in accordance with clauses 11(1) or 11(2) is not given, the products will be deemed to be in good order and condition and in accordance with the Conditions and the Customer must accept the products accordingly.
- (4) ACP will have the right to inspect on site any products notified by the Customer as being defective and until such inspection is completed the product must not be installed.

#### **12. TESTING AND REPORTING**

- (1) Where the Customer requires the products to be subject to special testing or inspection, the Customer will pay all costs of and associated with such testing or inspection.
- (2) Any inspector or other person attending ACP's premises on behalf of the Customer must be authorised in writing by the Customer.
- (3) The Customer will provide ACP with copies of all authorisations, test results, measurements and reports prepared by or for the Customer in relation to ACP's products.

#### **13. RETURN OF PRODUCTS**

- (1) Unless agreed in writing by ACP, ACP will not accept the return of products. Products specifically manufactured to the Customer's specifications or altered from standard specifications are not returnable. Only products returned in saleable condition can be accepted.
- (2) Products accepted for return by ACP may attract a charge to recover restocking and repackaging charges. The amount of this charge will be determined by ACP and debited to the credit account of the Customer.
- (3) The proof of purchase from the Customer must accompany all products returned to ACP.

#### **14. LIABILITY**

- (1) If the Customer is a Consumer:
  - (a) The products come with guarantees that cannot be excluded under the Australian Consumer Law. The Customer is entitled to a replacement or refund for a major failure and to compensation for any other reasonably foreseeable loss or damage in accordance with the Australian Consumer Law. The

Customer is entitled to have the products repaired or replaced if the products fail to be of acceptable quality and the failure does not amount to a major failure.

- (b) The guarantees under the Australian Consumer Law are given by ACP.
  - (c) If the Customer believes the products do not comply with the statutory guarantees, they must contact ACP and the parties may make arrangements for the return of the products. If ACP agrees that the products do not comply with the statutory guarantee ACP will refund the costs of returning the products to ACP and, in all other respects, act in accordance with its obligations under the Australian Consumer Law.
  - (d) Subject to clause 14(1)(b), all other terms, representations, warranties, guarantees and conditions that might otherwise be granted or implied by law are expressly excluded to the maximum extent permitted by law, unless agreed by ACP in writing. ACP does not exclude, restrict or modify any liability that cannot be excluded, restricted or modified except to a limited extent, as between ACP and the Customer by law.
- (2) If the Customer is not a Consumer:
- (a) All claims for ACP's failure to comply with the Customer's order whether due to shortfall, defect, incorrect delivery or otherwise must be made by giving written notice to ACP within fourteen (14) days from the time of delivery of products. If the Customer fails to provide such notice then the Customer will be deemed to have accepted the products.
  - (b) All terms, representations, warranties and conditions that might otherwise be granted or implied by law are expressly excluded to the maximum extent permitted by law, unless ACP agrees in writing. ACP does not exclude, restrict or modify any liability that cannot be excluded, restricted or modified except to a limited extent, as between ACP and the Customer by law.
  - (c) ACP's liability for breach of a non-excludable condition or warranty is limited, at ACP's option, to any one of the following:
    - (i) the replacement of the products or the supply of equivalent products;
    - (ii) the repair of the products;
    - (iii) the payment of the cost of providing replacement products or of acquiring equivalent products;
    - (iv) the payment of the cost of having the products repaired; or
    - (v) in the case of services, the re-supply of the services or paying for the cost of re-supplying the services.
  - (d) If a product is defective ACP will not be liable for the removal of any defective products or for the re-installation of any products.
  - (e) ACP will not be liable for any defect, loss, damage or injury howsoever arising by reason of:
    - (i) a failure to use the products in a manner other than what is normally expected to be done with or in relation to the products;
    - (ii) any delay in delivery;
    - (iii) a failure to comply with any instructions or warnings with respect to doing anything with or in relation to the products.
  - (f) Any design or description of use, capacity, durability, colour, manner of installation, information, detail contained in drawings, data sheets, technical brochures or other documents provided by ACP are given as a general guide only and the Customer acknowledges that it has satisfied itself as to the suitability of the products for the Customer's particular purpose, use or application and ACP will not be liable in these respects.
- (3) Neither the Customer or ACP are liable to the other for:
- (a) any loss, cost, damage or expense to the extent that it is for indirect, special, economic or consequential loss, where consequential loss means any loss, cost, damage or expense beyond the normal measure and beyond that which every plaintiff in a like situation would suffer; or
  - (b) any loss of revenue, business or profits or any nature whatsoever, loss of expected savings, loss of chance or business opportunity, business interruption, loss or reduction of goodwill or damage to reputation or any loss of value of intellectual property.
- (4) The Customer indemnifies ACP for any loss, cost, damage or expense suffered by ACP arising from any failure to install the products in accordance with their applicable installation instructions and manuals provided with the products or to operate the products in accordance with their applicable operation instructions and manuals provided with the products, or in connection with the negligence of the Customer including in relation to the installation or operation of the products.

## **15. GST**

- (1) In the Conditions, the expressions "GST", "tax invoice", "recipient" and "taxable supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999 (Cth)
- (2) With the exception of any amount payable under this clause 15, unless otherwise expressly stated, all amounts stated to be payable by the Customer under any Contract are exclusive of GST.
- (3) If GST is imposed on any supply made under or in accordance with any Contract, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with the Contract, subject to the provision of a tax invoice.

## **16. PRIVACY**

- (1) The Customer acknowledges and agrees that ACP may collect personal information and credit information about the Customer and its directors, officers, partners and the Guarantors (each a "Relevant Party").
- (2) ACP's privacy policy is available on its website or on request from ACP and form part of the Conditions.
- (3) ACP's web site may be hosted, or some data may be stored, overseas for reasons of uniformity and convenience for the Fletcher Group. All personal information and credit information derived from Australia will still be treated in accordance with ACP's privacy policy while being stored overseas.
- (4) In accordance with ACP's privacy policy, the Customer agrees that ACP may use or disclose information to the Fletcher Group and to third parties for the purpose of providing the products and services; providing information about products and services; sending information on the Fletcher Group and its services; performing the Fletcher Group's administrative and marketing operations; complying with legislative and regulatory requirements or as otherwise permitted or authorised by Law; considering any other application the Customer may make to ACP or any other Fletcher Group Member; managing ACP's rights and obligations in relation to external payment systems e.g. credit card schemes and debit payment schemes; conducting market research or customer satisfaction research; developing, establishing and administering arrangements (including rewards programs) with other organisations in relation to the promotion, administration and use of any of the Fletcher Group's products and services; and developing and identifying products and services that may interest the Customer.
- (5) The Customer warrants to ACP that it has obtained the consent of each of the Relevant Parties to the collection, use and disclosure of their personal information and credit information by ACP in accordance with this clause 16 and ACP's privacy policy.

## **17. ANTI-CORRUPTION LAWS**

- (1) The Customer agrees to comply with the Anti-Corruption Laws and must not commit any act or omission which causes or would cause it or ACP to breach, or commit an offence under, any Anti-Corruption Laws.
- (2) The Customer warrants and represents that it has not been convicted of any offence, and has not been the subject of any investigation or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence, under Anti-Corruption Laws.
- (3) The Customer must, to the extent permitted by law, promptly notify ACP in writing if it becomes aware at any time during the term of any Contract that any of the representations or warranties in clause 17(2) are, or might reasonably be expected to be, no longer correct.

## **18. AMENDMENTS AND WAIVER**

ACP will not be taken to have agreed to any amendment or waiver of any provision of any Contract unless the amendment or waiver is in writing signed by ACP. No terms and conditions referred by the Customer after the date of a Contract will form part of the Contract unless expressly agreed in writing by ACP.

**19. GOVERNING LAW**

Each Contract is governed by the law for the time being of the State from which the products or services are to be supplied.

**20. FORCE MAJEURE**

ACP will not be liable for any delay, loss, damage or injury arising by reason of a Force Majeure Event.

**21. SUBJECT TO STATUTE**

Each Contract is subject to the provisions of any statute applicable to it and which may not be varied by the terms of the Contract. If any provision of a Contract is void or unenforceable that provision will be severed and the remaining provisions will continue with full force and effect.

**22. NOTICES**

All notices given under or in connection with any Contract will be in writing and given or delivered to the recipient at its address specified in the Contract or at its registered office or principal place of business.

**23. CONFIDENTIAL INFORMATION**

If at any time ACP discloses to the Customer or the Customer becomes aware of confidential information of ACP including confidential information relating to products, material, procedures, tests or equipment, the Customer will not use the information for any purpose not approved by ACP and will not disclose that confidential information to any other person unless expressly agreed in writing by ACP.

**24. ASSIGNMENT**

A Contract is assignable by the Customer in whole or in part only with ACP's written consent.

**25. UN CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS**

The application of the United Nations Convention on Contracts for the International Sale of Goods (known as the Vienna Sales Convention 1980) is excluded.