

# AliWood Terms of Trade



## 1. INTERPRETATION

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In this Agreement, the following words have these corresponding meanings:

"**ACL**" means the Australian Consumer Law Schedule of the *Competition and Consumer Act 2010* (Cth) as amended.

"**Agreement**" means this Agreement.

"**AliWood**" MHMW Group Pty Ltd (ACN 660 585 875) (ABN 53 660 585 875) trading as AliWood.

"**Customer**" means the party named in Item 1 of the Schedule, or, if no party is named, the party to whom AliWood provides this Agreement.

"**Claims**" includes any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, proceedings of any kind, costs, expenses or disbursements of any kind which may be imposed on, incurred or intimated by any person relating to, or arising from, performance of the agreement.

"**Delivery**" is deemed to have occurred:

- (a) if delivered by AliWood, at the time that the Goods leave AliWood's premises;
- (b) if collected by the Customer, at the time that the Goods are made available for collection by the Customer; and
- (c) if sent by freight, at the time that the Goods leave AliWood's premises.

"**GST**" means the Goods and Services Tax as defined in *A New Tax System (Goods and Services Act) 1999* (Cth) as amended.

"**Guarantor**" has the meaning given to it in clause 10 of this Agreement.

"**Order**" means a request by the Customer to purchase Goods or obtain Services from AliWood.

"**Parties**" means the Customer and AliWood.

"**PPSA Act**" means the *Personal Property Securities Act 2009*

(Cth) as amended and any regulations made at any time under the PPSA Act.

"**Goods**" means the goods which AliWood sells or provides to the Customer from time to time.

"**Product and Service Price List**" means the list prices kept and updated from time to time by AliWood.

"**Register**" has the meaning given to it by section 10 of the PPSA.

"**Schedule**" means the Schedule on the front page of or otherwise attached to this Agreement.

"**Security Interest**" has the meaning given to it by section 12 of the PPSA.

"**Services**" means any services which AliWood sells or provides to the Customer from time to time.

"**Site**" means any location to which the Customer requests that Goods be delivered or at which Services are to be performed.

## 2. ACCEPTANCE OF AGREEMENT

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- a) The Customer agrees to the terms and conditions set out in this Agreement and enters into this Agreement with AliWood upon the earliest of the events to occur referred to below:
  - (i) signing a copy of the Agreement;
  - (ii) placing an Order with AliWood; and
  - (iii) requesting Goods or Services from AliWood after having received a copy of this Agreement.

## 3. ENTIRE AGREEMENT

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- a) This Agreement constitutes the full and complete statement of the agreement between AliWood and the Customer and no variations or modifications of any term of the Agreement shall be binding upon AliWood unless agreed to in writing by AliWood.
- b) AliWood may vary or amend these terms by written notice to the Customer at any time. Any variations made will only apply to Orders placed by the Customer after the date of the written notice and shall be taken to apply from the date AliWood provides notice of the variation to the Customer's details set out in the Schedule.

## 4. TERM OF AGREEMENT

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- a) This Agreement as varied by AliWood under clause 3(b) shall apply to all orders received and accepted by AliWood.

## 5. SUPPLY OF THE GOODS AND SERVICES

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- a) The Customer may Order from AliWood from time to time such quantities of Goods and Services it requires, with Orders to be in such format (whether written or otherwise) as AliWood directs from time to time. AliWood has the right to accept or reject Orders in its absolute discretion.
- b) Prior to placing its first Order, the Customer must provide AliWood with three (3) trade references at Item 4 of the Schedule. AliWood reserves the right in its absolute discretion to refuse any Order or place restrictions or conditions on fulfilling any Order in its sole and absolute discretion.
- c) The Customer agrees to provide a current driver's licence to AliWood and authorises AliWood to take and keep a copy of the driver's licence for its records.
- d) AliWood does not warrant or guarantee that it will be able to supply any Order and will not be responsible for any Claims suffered by the Customer as a result of failure to supply or delays in supplying Goods and

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Services, regardless of the reason for the failure to supply.

- e) AliWood retains the absolute discretion at all times to refuse to accept any Order made by the Customer for Goods or Services.
- f) Any period or date for delivery of Product or Services stated by or on behalf of AliWood shall be regarded by the Customer as an estimate only and not a binding contractual commitment by AliWood.
- g) The Customer acknowledges that AliWood may engage agents or subcontractors in the provision of Goods and Services to the Customer.

## **6. SITE REQUIREMENTS**

- a) The Customer shall provide safe, constant, suitable and practical means of access to the Site at all times and must ensure that the Site is suitable to allow the efficient and safe delivery of Goods and Services.
- b) The Customer warrants that it is the owner of the Site, or, if it is not, that it is authorised by the owner to allow for Services being performed at the Site and/or for Goods to be installed or delivered to the Site.
- c) The Customer shall ensure that any other parties performing works at the Site do not interfere with or otherwise hinder AliWood's provision of the Services or delivery of the Goods. In this regard, the Customer shall provide to AliWood any information reasonably required by it in respect of the activities or proposed activities of any other party performing works at the Site.
- d) At no time does AliWood take or accept any responsibility for the Site and all risk and liability in and relating to the Site remains with the Customer at all times.
- e) The Customer shall ensure that to the extent that the provision of Goods and Services by AliWood is reliant upon the supply of access, goods, materials, areas, services or structures by others, such supply will be provided without delay or impediment.
- f) The Customer warrants that the Site at all times shall be safe and not expose AliWood or any employees or agents of AliWood to risk of any kind.
- g) The Customer indemnifies and shall keep AliWood indemnified from all Claims in relation to AliWood's supply of Goods or Services under this Agreement.

## **7. PRICING AND PAYMENT**

- a) Unless the Customer has been provided with a fixed quote, the Customer shall be charged for the Goods and Services as set out in AliWood's Product and Service Price List as it applies at the time of the Customer placing each individual Order. If a Product or Service does not appear on the Product and Service Price List then

AliWood shall charge for that Product or Service such amount as AliWood determines appropriate in its sole and absolute discretion.

- b) The Customer agrees to pay AliWood in cleared funds for the supply of all Goods or provision of Services in accordance with the Terms of Payment set out at Item 5 of the Schedule.
- c) The Customer acknowledges that the Goods and the prices in the Product and Service Price List may be modified by AliWood from time to time without notice throughout the currency of this Agreement and it shall be the responsibility of the Customer to check with AliWood as to the availability and price of any particular Product or Service immediately prior to placing any Order.
- d) If the Customer has been provided with a fixed quote, then such quote is subject to these and any other terms or provisions referred to in the quote. In the case of all such quotes, unless stated otherwise the quote shall be subject to AliWood being able to source any items of equipment
- e) required for the Goods or Services in a timely manner and, should AliWood not be able to do so, the quote shall no longer be binding upon it and the Customer releases AliWood from all Claims in relation to that quote.
- f) Any quote that is based on drawings or specifications provided by or on behalf of the Customer shall be subject to change at AliWood's discretion should it become necessary that the Goods or Services be provided in a manner other than strictly in accordance with those drawings or specifications.
- g) The terms of payment shall be as set out in Item 5 of the Schedule save that AliWood shall be free at all times, in its sole and absolute discretion, to amend payment terms in regard to any unfilled Orders, including without limitation to and require payment in advance.
- h) Should the Schedule be silent as to terms of payment then the Customer must make payment in advance of delivery of any Goods or Services.
- i) Payment by cheque is not deemed to have been made unless and until the proceeds of the cheque have cleared in AliWood's account.
- j) The Customer shall be liable for, and expressly undertakes to pay, all fees (including an administration fee in an amount to be set from time to time by AliWood) for all costs incurred for any cheque being dishonoured for whatever reason.
- k) Unless otherwise stated, quotes for Goods and Services or delivery are exclusive of GST and any other applicable taxes or duties. In addition to the price for the Goods and Services the Customer shall also pay any applicable GST, taxes or duties.
- l) Any quotation provided by AliWood to the Customer shall be valid only for 30 days from the time it was made

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and may be withdrawn at any time by AliWood within that period.

- m) In the event that the Customer seeks to alter the scope of the Goods or Services after the Order has been placed, or if it becomes apparent to AliWood that the scope of the Goods or Services needs for whatever reason to be modified ("Additional Works") AliWood shall be free, if it agrees to the Additional Works, to charge additional amounts over and above the quoted amount to take into account the Additional Works, including any additional labour and materials required. AliWood may seek approval of such Additional Works (if they are known) prior to the Additional Works being undertaken, and shall not be compelled to complete the Additional Works unless the Additional Works are agreed to between the Parties.
- n) The Customer shall in addition to payment for all Orders and other amounts due to AliWood also be liable for reimbursement of all and any legal costs and other expenses incurred by AliWood in enforcing this Agreement or in respect of any dispute between the Parties.
- o) In respect of payments required to be made by the Customer under this Agreement time shall be of the essence.

## **8. WARRANTIES, INDEMNITY AND LIMITATION**

- a) AliWood shall make reasonable efforts to transfer to the Customer the benefit of warranties from third party suppliers that are transferrable. Where damage results from disregard of operating and or maintenance instructions, accidents, neglect, unauthorised repairs or alterations, misuse, acts of God, or conduct beyond the control of AliWood no warranty will apply. AliWood provides no independent warranty and is not responsible for any Claims should the third party supplier not honour their warranty to the Customer.
- b) Subject to any warranties implied by law that cannot be lawfully excluded, AliWood makes no warranty to the Customer, including in respect of the following:
  - (i) Defects in the Goods or services, other than as notified to AliWood in writing within 10 days of delivery to the Customer;
  - (ii) the use, supply, sale or exploitation in any manner of the Goods or Services does not infringe upon the intellectual property rights of third parties and/or that the Customer will not be subject to claims of or litigation concerning infringement of such rights.
- c) The Customer is and shall at all times be solely responsible for all risks associated with the Goods and Services and acknowledges that AliWood makes no representations or warranties with regard to the Goods or Services.

- d) AliWood shall not be liable for any Claim by any person arising in connection with Goods or Services other than in relation to subparagraph E below.
- e) All express and implied terms, conditions and warranties which might otherwise apply to AliWood, or arise out of this agreement are excluded, other than as expressly set out in this agreement or which cannot be lawfully excluded by the operation of law. For the avoidance of doubt, nothing in this agreement is to be construed as a representation or warranty by the Licensor that the Goods or Services will not infringe any third party intellectual property rights, including without limitation patent rights, copyright, registered design rights or other rights;
- f) The Customer indemnifies AliWood and shall keep AliWood indemnified from and against all Claims arising directly or indirectly from AliWood supply of Goods and Services to the Customer.

## **9. BREACH BY CUSTOMER**

- a) Interest shall be payable by the Customer to AliWood on any amounts outstanding outside of the Terms of Payment set out at Item 5 of the Schedule at the rate of 15% per annum calculated daily on the amount outstanding.
- b) AliWood may suspend or cancel any Order should the Customer fail to make any payment within the Terms of Payment set out at Item 5 of the Schedule.
- c) The Customer hereby indemnifies AliWood in respect of any costs incurred by AliWood (including legal costs on a solicitor/client basis) as a result of any breach of this Agreement by the Customer, including (without limitation) any breach of the Terms of Payment set out at Item 5 of the Schedule. Such costs include but are not limited to the costs of any demands made of the Customer to remedy any breach, and any legal proceedings to recover unpaid money.

## **10. DIRECTOR'S GUARANTEE**

- a) In the event that the Customer is an incorporated entity:
  - (i) the person signing this Agreement on behalf of the Customer (the "Guarantor") hereby warrants that he or she has authority to provide this guarantee and personally guarantees to AliWood the due performance of the Customer's obligations under this Agreement, including the due and punctual payment of any money payable by the Customer to AliWood, for any reason, at any time (the "Guarantee"). The Guarantee is a continuing guarantee. The obligations under the Guarantee are principal obligations and may be enforced against the Guarantor without AliWood being first

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required to pursue any remedy it may have against the Customer.

- (ii) the Guarantor indemnifies AliWood against all costs and losses however arising or incurred as a result of the Customer's or the Guarantors failure to comply with the terms and conditions contained in this Agreement.
- b) The Guarantor charges in favour of AliWood as security for the Guarantee, all right, title and interest in the Guarantor's real and personal property. The Guarantor agrees that AliWood is free to register any security over the Guarantor's real or personal property to better secure the charge created by this clause. In addition to the Guarantee above, the Customer and the Guarantor agree that they will, if called upon at any time by AliWood to do so, procure from any other directors of the Customer, a further personal guarantee of the Customer's obligations pursuant to this Agreement in a form acceptable to AliWood, with such guarantee to cover both future liabilities and
- c) Any liabilities of the Customer to AliWood which predate the signing of the guarantee.

## **11. RETENTION OF TITLE TO GOODS**

- a) Until AliWood receives full payment in the form of clear funds for all Goods or Services supplied by it to the Customer together with any other amounts owing by the Customer to AliWood pursuant to this Agreement:
  - (i) all right, title and interest in all of the Goods remains vested in and the absolute property of AliWood and does not pass to the Customer;
  - (ii) the Customer charges in favour of AliWood as security for payment for the Goods or the provision of Services, all right, title and interest in the Customer's real and personal property. The Customer agrees that AliWood is free to register any security over the Customer's real or personal property to better secure the charge created by this clause;
  - (iii) the Customer must hold the Goods as bailee for AliWood benefit;
  - (iv) the Customer must hold the proceeds of any sale of the Goods on trust for AliWood and observe all obligations of a trustee in favour of AliWood as beneficiary of those proceeds; and
  - (v) in addition to its rights under the PPSA, AliWood may without notice, enter any premises where it suspects that the Goods are located and remove them, and for this purpose the Customer irrevocably licenses AliWood or its agents to enter onto such premises and also indemnifies AliWood from and against all Claims by any party arising from such action.

- (vi) for the purposes of the PPSA, by executing this Agreement or by placing an Order, the Customer agrees to grant to AliWood a Security Interest in the Goods or over all present and after acquired property of the Customer and AliWood shall be entitled to register the Security Interest on the Register.

## **12. The Customer is deemed to be in default immediately upon the happening of any of the following events:**

- a) if payment to AliWood is not made promptly before the due date; and
- b) if the Customer ceases to carry on business or stop or suspend payment or state the Customers intention of so doing or are unable to pay the debts as they fall due or if any cheque or bill of exchange drawn by the Company payable to AliWood is dishonoured.
- c) In the event of a default by the Customer, then without prejudice to any other rights which AliWood may have at law or under this Agreement:
  - (i) AliWood or its Agents may without notice to the Customer enter the Customers premises or any premises under the Customers control for the purposes of recovering the Goods.
  - (ii) AliWood may recover and resell the Goods;
  - (iii) if the Goods cannot be distinguished from similar Goods which the Customer have or claim to have paid for in full, AliWood may in its absolute discretion seize all goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of AliWood and the Customer may be ascertained. We must promptly return to the Customer any goods that are the Customer's property and AliWood are in no way liable or responsible for any loss or damage to the Goods or for any loss, damage or destruction to the Customer's business howsoever arising from the seizure of the Goods.
  - (iv) In the event that the Customer use the Goods in some manufacturing or construction process of Your own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for AliWood. Such part will be an amount equal in dollar terms to the amount owing by the Customer to AliWood at the time of the receipt of such proceeds. The Customer will pay AliWood such funds held in trust upon the demand of AliWood.

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## **13. PERSONAL PROPERTY SECURITIES ACT**

- a) Defined terms in this clause have the same meaning as given to them in the PPSA.
- b) AliWood and the Customer acknowledge that these Terms constitute a security Agreement and entitle AliWood to claim:
- (i) a Purchase Money Security Interest ("PMSI") in favour of AliWood over all present or future supplied Collateral to the Customer as Grantor pursuant to these Terms;
  - (ii) a security interest in favour of AliWood over the Goods supplied or to be or be supplied to the Customer as Grantor pursuant to this Agreement; and
  - (iii) a security interest over the Proceeds as original collateral.
  - (iv) the security interest is a continuing interest irrespective of whether there are monies or obligations owing by the Customer to AliWood at any particular point in time.
- c) The goods supplied or to be supplied under these Terms fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms.
- d) The Proceeds of sale of the Collateral referred to in clause 12 falls within the PPSA classification of "Account".
- e) AliWood and the Customer acknowledge that AliWood, as Secured Party, is entitled to register its Security Interest in the Collateral supplied or to be supplied to the Customer pursuant to these Terms and in the relevant Proceeds.
- f) The Customer must do whatever shall be necessary in order to give AliWood a valid security interest over the Goods and their proceeds which is able to be registered by AliWood on the Register. Without limiting the Customer's obligations under this clause, the Customer must immediately upon AliWood's request:
- (i) execute all documents and do any other things necessary to give effect to the security interest created under this Agreement; and
  - (ii) procure from any person considered by AliWood to be relevant to its security position such agreements and waivers as AliWood may require at any time.
- g) Nothing in this Agreement may be construed as an agreement or consent by AliWood to:
- (i) Subordinate any security interest granted in favour of the Customer in favour of any person; or
  - (ii) Defer or postpone the date of attachment of any security interest granted in favour of AliWood.
- h) The security interest arising under this clause attaches to the Goods when the Goods are collected from or dispatched from AliWood's premises and not at any later

time.

- i) AliWood shall be free to allocate sums received from the Customer in any manner AliWood determines, including in any manner required to preserve any Purchase Money Security Interest or any other security interest it has arising by virtue of supply of Goods to the Customer.
- j) The Customer warrants that it will not nor allow any other person or entity to register a security interest over the Customer or the Goods which in any way affects the Goods or AliWood's security interest.
- k) The Customer must not, without AliWood's prior consent, allow:
  - (i) The Goods to become mixed or commingled with any other property;
  - (ii) The Goods to become an accession to any other property; or
  - (iii) Any other property to become an accession to the Goods and to the extent that consent is given by AliWood, and the Goods become co-mingled or an accession to other goods, AliWood retains an interest in the whole until it received payment in full for the Goods provided by AliWood.
  - (iv) To the extent permissible at law, the Customer: waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Customer to AliWood.
  - (v) agrees to indemnify AliWood on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the;
- l) registration or amendment or discharge of any Financing Statement registered by or on behalf of AliWood; and
- m) enforcement or attempted enforcement of any Security Interest granted to AliWood by the Customer;
  - (i) agrees that nothing in sections 130 and 143 of the PPSA will apply to these Terms or the Security under these Terms;
  - (ii) agrees to waive its right to do any of the following under the PPSA:
    - a. receive notice of removal of an Accession under section 95;
    - b. receive notice of an intention to seize Collateral under section 123;
    - c. object to the purchase of the Collateral by the Secured Party under section 129;
    - d. receive notice of disposal of Collateral under section 130;
    - e. receive a Statement of Account if there is no disposal under section 132(4);
    - f. receive a Statement of Account under section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held

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by other Secured Parties have been discharged.

- g. receive notice of retention of Collateral under section 135;
  - h. redeem the Collateral under section 142; and
  - i. reinstate the Security Agreement under section 143.
- n) All payments received from the Customer must be applied in accordance with section 14(6)(c) of the PPSA.

## **14. DELIVERY**

- a) If the Goods are to be delivered by AliWood to the Customer, AliWood may at its sole discretion charge delivery costs in addition to the price agreed to be paid by the Customer for the Goods.
- b) If AliWood delivers the Goods to the Site and there is no one to accept delivery at that time, AliWood may charge a reasonable redelivery and/or storage fee to the Customer. AliWood is under no obligation to deliver the Goods if the Customer refuses to pay the delivery or redelivery fees.
- c) Any time or date given by AliWood to the Customer is an estimate only. The Customer must accept delivery of the Goods even if late and AliWood will not be liable for any loss or damage incurred by the Customer as a result of the delivery being late.

## **15. RISK, LIABILITY, RETURNS & DEFECTS**

- a) All risk in the Goods and Services and all insurance responsibility for theft, fire, other risks or damage of any other kind shall pass to the Customer immediately upon Delivery of the Goods to the Customer, regardless of whether there is any further work to be completed by AliWood in regard to those Goods.
- b) The Customer warrants that it has and will have at the time of making any particular Order for Goods and Services, all necessary licenses, permits or approvals under all relevant laws and regulations and from any person from which the Customer is required to have obtained such approval, to possess and use the Goods.
- c) If AliWood is liable for a breach of a guarantee implied by the ACL in respect to the provision of the Goods or Services and those Goods or Services are not of a kind ordinarily acquired for personal, domestic or household use or consumption, then, to the extent permitted by the ACL, its liability to the Customer will be limited to:
  - (i) the replacement of the Goods or the supply of equivalent Goods;
  - (ii) the payment of the costs of replacing the Goods or acquiring equivalent Goods;
  - (iii) the supplying of the Services again; or
  - (iv) the payment of the cost of having the Services supplied again.
- d) The Customer must inspect the Goods on Delivery and

must within 7 days of Delivery notify AliWood in writing of any evident defect, damage, shortage in quantity, or failure to comply with the Order. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow AliWood to inspect the Goods.

- e) Except as expressly set out in this Agreement and to the fullest extent permitted by law, AliWood makes no warranties or other representations under these terms and conditions including but not limited to the quality, suitability, merchantable quality or fitness for purpose of the Goods.
- f) If AliWood is required to replace the Goods under this clause or the ACL, but is unable to do so, AliWood may refund any money the Customer has paid for the Goods.
- g) If the Customer is not a consumer within the meaning of the ACL, AliWood's liability for any defect or damage in the Goods is:
  - (i) limited to any warranty to which AliWood is entitled, if AliWood did not manufacture the Goods; or
  - (ii) otherwise negated absolutely.
- h) Subject to this clause 14, returns will only be accepted provided that:
  - (i) the Customer has complied with the provisions of this Agreement; and
  - (ii) AliWood has agreed that the Goods are defective; and
  - (iii) the Goods are returned within fourteen (14) days at the Customer's cost; and
  - (iv) the Goods are returned in the same condition to that in which they were Delivered.
- i) Notwithstanding any other clause to the contrary contained in this Agreement, and subject to the ACL (if applicable), AliWood shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
  - (i) the Customer failing to properly maintain or store any Goods;
  - (ii) the Customer using the Goods for any purpose other than that for which they were designed;
  - (iii) the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
  - (iv) the Customer failing to follow any instructions or guidelines provided by AliWood;
  - (v) fair wear and tear, any accident, or act of God.
- j) AliWood may in its absolute discretion accept non-defective Goods for return in which case AliWood may require the Customer to pay handling fees for the returned Goods plus any freight costs.
- k) Notwithstanding anything contained in this Agreement,

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if AliWood is required by a law to accept a return then AliWood will only accept a return on the conditions imposed by that law.

invoices Orders that remain unpaid at the time of termination.

## 16. INTELLECTUAL PROPERTY

- a) Where AliWood has designed, drawn or developed Goods or Services for the Customer, then the copyright in any designs and drawings and documents shall remain the property of AliWood.
- b) The Customer warrants that all designs, specifications or instructions given to AliWood will not cause AliWood to infringe any copyright, patent, registered design or trademark in the execution of the Customer's Order and the Customer agrees to indemnify AliWood against any action taken by a third party against AliWood in respect of any such infringement.
- c) The Customer agrees that AliWood may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, Goods or Services which AliWood has created for the Customer.

## 17. CANCELLATION OF ORDERS

- a) No purported cancellation, variation or suspension of an Order for Goods or Services (or any part of an Order for Goods or Services) by the Customer shall be binding upon AliWood once the Order has been placed with AliWood.
- b) In the event that the Customer cancels delivery of Goods and/or the provision of Services, the Customer shall be liable for any costs incurred by AliWood up to the time of the cancellation.

## 18. FORCE MAJEURE

- a) AliWood shall not be liable in any manner whatsoever to the extent that it has been prevented from performing any obligation under this Agreement by reason of matters beyond its control, including without limitation:
  - (i) inability to source Goods;
  - (ii) inability to access the Site or part of the Site;
  - (iii) lack of access to or other required resources at the Site;
  - (iv) lack of availability for whatever reason of staff or contractors;
  - (v) acts of God, accidents or machinery breakdown;
  - (vi) acts or threats of terrorism or war; or
  - (vii) industrial, trade, economic or international disputes or strikes.

## 19. TERMINATION ON NOTICE

- a) Subject to clause 16, either Party may terminate this Agreement by giving the other Party 30 days' written notice of its intention to do so without prejudice to AliWood's accrued rights, including without limitation in respect of Orders filled, accepted and to be filled and

## 20. IMMEDIATE TERMINATION OF AGREEMENT

- a) AliWood may terminate this Agreement immediately by giving written notice to the Customer if the Customer:
  - (i) goes into liquidation;
  - (ii) has an administrator or a receiver to its property or assets appointed;
  - (iii) is made bankrupt;
  - (iv) materially breaches its obligations under this Agreement where such breach is either not capable of remedy or, if capable of remedy, the Customer fails to remedy such breach within 14 days after receipt of written notice of such breach by AliWood; or
  - (v) engages in any conduct (which includes any conduct by employees of the Customer) which in the opinion of AliWood is or might be damaging to the reputation of AliWood or any of the Goods and or Services.

## 21. EFFECT OF TERMINATION

- a) Notwithstanding any other clause to the contrary contained in this Agreement, the termination of this Agreement for whatever reason shall not in any way affect any rights or responsibilities accruing prior to the termination taking effect and AliWood's rights in the event of default (including the ongoing accrual of interest and the right to indemnity for costs) shall continue beyond any termination.

## 22. OBTAINING OF INFORMATION

- a) The Customer and the Guarantor agree and authorise AliWood to make any enquiries or conduct any searches of the Customer or the Guarantor as AliWood deems necessary in its absolute discretion prior to accepting any Order and each authorize AliWood to disclose information about the Customer and/or Guarantor in the course of doing so.

## 23. RELATIONSHIP OF PARTIES

- a) Nothing in this Agreement shall give rise to a partnership, joint venture or relationship of employment between the Parties.

## 24. WAIVER

- a) Any failure or delay by AliWood to exercise a power or right does not operate as a waiver of that power or right. The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right. A waiver is not effective unless it is

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inwriting.

## **25. READING DOWN OF AGREEMENT**

- a) If a clause in this Agreement is unenforceable it must be read down so as to be enforceable or, if it cannot be so read down, it must be severed from this Agreement without affecting the enforceability of the remaining terms of the Agreement.

## **26. JURISDICTION**

- a) This Agreement shall be governed by the laws of Victoria and the parties submit themselves to the exclusive jurisdiction of the State of Victoria.