

APPLICATION FORM FOR CREDIT ACCOUNT

APPLICANT DETAILS			
Account Name			
Registered and/or Trading Name			
Postal Address	Postcode:		
Shipping Address	Postcode:		
Registered Business Address	Postcode:		
Phone Number	Fax Number		
Email Address			
Company Website			
Primary Contact	Primary Contact No.:		
GENERAL BUSINESS DETAILS			
Years of Active Trade	ABN		
Number of Employees	Annual Revenue		
Trading Status	Sole Trader	Partnership	Private Company Public Company
Principal Nature of Business			
Are business premises	Owned	Leased	Rented
If owned, are they subject to a mortgage or charge?	Yes	No	
BANK DETAILS			
Account Name	Bank Name		
BSB No.	Account No.		
Does your business require an order number on account invoices?	Yes	No	
FULL NAMES & RESIDENTIAL ADDRESSES OF DIRECTORS/PARTNERS/TRUSTEES			
Name	Phone Number		
Address	Owned	Rented	
Name	Phone Number		
Address	Owned	Rented	
Name	Phone Number		
Address	Owned	Rented	

Please note: Guarantees may be required.

NAMES OF RELATED OR SUBSIDIARY COMPANIES OR PARTNERSHIPS

1
2
3

**TRADE REFERENCES FROM WHOM ENQUIRIES CAN BE MADE
(other than finance, oil, leasing or hire companies)**

Name		Phone Number	
Monthly Trading Level	Date Last Traded	Email Address	
Name		Phone Number	
Monthly Trading Level	Date Last Traded	Email Address	
Name		Phone Number	
Monthly Trading Level	Date Last Traded	Email Address	

DISCLOSURE OF INFORMATION

The applicant / guarantor hereby authorises SVC Products Pty Ltd to make enquiries or exchange or disclose any information concerning my/our credit, from or to any person or source authorised under the Privacy Act, and I/we acknowledge that SVC Products Pty Ltd may supply this information to a credit reporting agency.

AGREEMENT

We have read and agree to accept the TERMS AND CONDITIONS OF QUOTATION, SALE AND TENDER OF SVC PRODUCTS PTY LTD.

If the credit facility applied for in this document is granted:

- I/We understand that your trading terms are **NET THIRTY (30) DAYS** from the end of the month of invoice, unless otherwise stated on the invoice, and agree to comply with these terms.
- I/We agree to notify you of any significant changes in the information provided in this application.
- I/We understand that the credit facility will be withdrawn and agree that all monies will immediately become due and payable if, solely in the opinion of **SVC PRODUCTS PTY LTD**, this application contains false or misleading information.
- I/We agree that until full payment is received, **SVC PRODUCTS PTY LTD** retains the legal and equitable title to all goods supplied to the applicant who shall remain as a bailee of the goods and, to the extent of **SVC PRODUCTS PTY LTD's** interest, any other object into which the goods may be incorporated and any proceeds from the sale of the goods supplied or the other objects and agree that the issue of a cheque shall not be deemed as payment until the cheque is duly cleared.

SIGNED BY: _____

POSITION: _____

ON BEHALF OF: _____

Please return completed application form to: **SVC PRODUCTS PTY LTD**
PO BOX 757 BRAESIDE VIC 3195
1300 287 782 | accounts@svc.com.au

OFFICE USE ONLY

Account Owner		Account Number		Rating	
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DEED OF GUARANTEE AND INDEMNITY

In consideration of **S.V.C PRODUCTS PTY LTD ACN 004 279 458** (hereinafter called **SVC**) agreeing to supply goods or services

to _____ (hereinafter called THE CUSTOMER)

of _____

We: 1. _____ of _____
2. _____ of _____
3. _____ of _____

(hereinafter called THE GUARANTORS) covenant and agree jointly and severally with SVC as follows:

- A.** THE GUARANTORS will be liable jointly and severally with THE CUSTOMER (and with each other Guarantor if there is more than one Guarantor) for the due and punctual payment of all moneys to be paid by THE CUSTOMER and compliance with all terms under the Terms and Conditions between THE CUSTOMER and SVC ("Terms"). THE GUARANTORS indemnify SVC from and against all Loss, damage costs (including all costs payable by SVC to a solicitor on a solicitor and own client basis) and expenses which SVC may suffer or incur in consequence of any breach or non-observance of the Terms by THE CUSTOMER and THE GUARANTORS agree that THE GUARANTORS will remain liable to SVC under this indemnity notwithstanding as a consequence of any breach or non-observance SVC has exercised any of its rights under the Terms.
- B.** Any demand for payment under this GUARANTEE may be made in writing by or on behalf of SVC and left at or sent by post to the address of THE GUARANTORS last known to SVC and if posted, shall be deemed to be served on the business day following that on which it is posted.
- C.** A statement signed by THE SECRETARY or a CREDIT MANAGER of SVC stating the amount due shall be prima facie evidence that such amount is due and payable by THE GUARANTORS at the date of the statement.
- D.** The liability of THE GUARANTORS under this GUARANTEE shall not be affected by SVC granting any extension, indulgence or concession whatsoever to THE CUSTOMER or by SVC ceasing at any time to supply goods and/or services to THE CUSTOMER.
- E.** All payments received by SVC from THE CUSTOMER shall be taken by SVC as payments in gross and any right of subrogation on the part of THE GUARANTORS shall not arise until SVC has received the full amount of any claim against THE CUSTOMER and this GUARANTEE shall be a security to SVC for the payment of any ultimate balance that shall remain due to SVC for any reason whatsoever.
- F.** THE GUARANTORS agree with SVC that the GUARANTEE will remain in force until SVC notifies THE GUARANTORS of the cessation of the GUARANTEE in writing at the address of THE GUARANTORS last known to SVC.
- G.** The expression THE CUSTOMER in this GUARANTEE shall include successors and assigns of THE CUSTOMER and all or any successors in the business of THE CUSTOMER.
- H.** Notwithstanding that as between THE GUARANTORS and THE CUSTOMER THE GUARANTORS may be a surety only, as between THE GUARANTORS and SVC THE GUARANTORS are a principal debtor.
- I.** THE GUARANTORS hereby charge all of their legal and beneficial interest in all of their property, including but not limited to their real property and personal property (as that term is defined in the *Personal Property*



Securities Act 2009 (Cth)), with a security interest on the same terms as if THE GUARANTORS was named as Customer under clause 13 of the Terms.

1. By signing below, I/we acknowledge having received, read and understood the Terms.
2. I/We agree to be bound, as Guarantor, in accordance with the Terms.
3. I/We hereby authorise SVC to give and obtain from any credit reporting agency or credit provider a credit report for the purpose of assessing whether to accept me/us as a guarantor in respect of a credit account by SVC to the Customer, including this application made by the Customer.
4. I/We understand that this informatoin can include Personal Information about my/our credit worthiness, credit standing, credit history and credit capacity that credit providers are lawfully permitted to give or receive from one another under the *Privacy Act 1988* (Cth).

Dated this _____ day of _____ 20_____

SIGNED, SEALED AND DELIVERED by

_____ as Guarantor in the presence of:

Witness

SIGNED, SEALED AND DELIVERED by

_____ as Guarantor in the presence of:

Witness

EXECUTED by **S.V.C. PRODUCTS PTY LTD**
ACN 004 279 458 in accordance with its
Constitution and the *Corporations Act 2001*

Director

Director/Secretary

GENERAL TERMS AND CONDITIONS OF SALE

These Terms apply to the supply of Goods by SVC to the Customer on or after 28 October 2017. By ordering or accepting delivery of Goods from us on or after 28 October 2017, you agree to be bound by these Terms.

1. Parties

SVC Products Pty. Ltd. ACN 004 279 458
(SVC)

The party named as Customer at Item 1 of Schedule 1 (Customer)

2. Definitions and Interpretation:

In these Terms: unless the context requires otherwise:

(a) The following expressions shall have the following meanings:

Agreement means the agreement between SVC and the Customer for the supply of Goods incorporating the relevant quotation, these Terms, and any related document, including any order submitted by the Customer and SVC's acceptance of that order;

Claim means any claim, action, demand or proceeding however arising (including under contract, statute, common law or equity) in respect of any Loss or alleged Loss);

Confidential Information means any information, verbal or written, personal or otherwise including documents, plans, sketches, drawings, software, marketing strategies, research, trade secrets, processes, technical information, know-how and intellectual-property of SVC, but does not include public information, information independently developed or acquired or information authorised in writing by SVC;

Consumer shall have the meaning given to that term in the *Australian Consumer Law, Schedule 2 to the Competition and Consumer Act 2010* (Cth);

Customer means the persons, firm or company from whom the order is received or its legal assigns or successors, and references to **you** and **your** are references to the Customer;

Delivery Point means the place nominated in the Agreement for delivery of the Goods the subject of that Agreement. For the avoidance of doubt, if no Delivery Point is nominated, delivery can take place at SVC's premises;

Goods means those items specified in the Customer's order accepted by SVC;

GST means any tax or imposition on the supply of goods and services covered by *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (the **GST Act**) as amended from time to time;

GST Amount in relation to a taxable supply, as that term is defined in the GST Act (excluding the reference to section 84-5 of that Act), means the amount of GST payable in respect of that taxable supply;

Loss includes (without limitation) all types of losses and damages whether direct or indirect, special or consequential in nature, including legal costs (on a solicitor own client basis), fines and loss of profits;

PPS Act means the *Personal Property Securities Act 2009* (Cth);

PPSA means the PPS Act and includes a reference to the Act as amended, re-enacted or replaced and any subordinate legislation issued under it;

Quotation Date means the date of any quotation we give you;

Services means the services to be provided by SVC to the Customer (including the supply of Goods) under these Terms, as detailed in Schedule 1 and any other services provided by SVC to the Customer. For the avoidance of doubt, the parties agree that the "Services" fall within the definition of "construction work" under the SOPA;

SOPA means the *Building and Construction Industry Security of Payment Act 2002* (Vic);

SVC means S.V.C Products Pty Ltd ACN 004 279 458, ABN 96 004 279 458, and **we, us** and **our** are references to SVC;

Tax Invoice has the same meaning as in the GST Act; and

Terms means these general terms and conditions of sale.

(b) In these Terms, unless the context otherwise requires:

- i. All amounts are in Australian dollars unless expressly stated otherwise;
- ii. A reference to a party includes the party's heirs, executors, successors and permitted assigns;

iii. Where any word or phrase is given a defined meaning any other part of speech or other grammatical form concerning the word or phrase has a corresponding meaning;

iv. A reference to a statute includes all regulations and subordinate legislation and amendments;

v. References to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes e-mail;

vi. A reference to time is to local time in Victoria and a reference to a business day means any day on which trading banks are open for business in Melbourne. If any time period specified in these Terms expires on a day which is not a business day, the period shall expire at the end of the next business day;

vii. The word "person" includes a natural person and any body or entity whether incorporated or not.

viii. Reference to words in the singular include the plural and vice versa; and

ix. Where there are two or more persons comprised in the definition of the Customer, then the obligations imposed on the Customer by these Terms shall be deemed to be joint and several.

2. Quotation

(a) Any quotation issued to you by SVC will lapse if not accepted by you within 45 days of the Quotation Date.

(b) The prices quoted by SVC are calculated upon costs current at the Quotation Date for ordinary work during normal working hours and is subject to cost adjustment.

(c) Commencement of work by us at your request will constitute your full acceptance of the offer set out in our quotation, including these Terms.

(d) If you order less than the original quantity set out in our quotation and we accept that order, SVC reserves the right to increase the quoted price per unit. If accepted, your partial order will be subject to these Terms.

4. Payment

- (a) Unless otherwise expressly agreed by SVC, you must pay for all Goods/Services supplied under an Agreement at the time you notify us that you accept our quotation or submit a partial order, or as otherwise agreed by us in writing
- (b) Subject to paragraph 4(c), we will issue a tax invoice for Goods/Services supplied on the date of delivery.
- (c) If SVC has produced Goods in accordance with a schedule agreed with you, but the Goods are not able to be delivered, we will issue interim invoices on a periodic basis and each such invoice will be valued at 90% of the value of the Goods produced since production commenced or since the last interim invoice was issued as applicable. The balance of the value of the Goods will be invoiced during the month in which the Goods are delivered to you or at your direction. All invoices rendered under this paragraph 4(c) will be on a "net 30 days" basis.
- (d) If you have established a credit account with us which remains current, you must pay all credit accounts within 30 days of the end of the month during which a tax invoice has been issued to you (Due Date). Any amount which remains unpaid 15 days after the Due Date will attract interest at the rate fixed under Section 2 of the Penalty Interest Rates Act 1983 plus 2% per annum on the overdue balance from the Due Date until the date of payment (Default Rate).
- (e) The SOPA applies to Goods/Services supplied by us.
- (f) The Customer may not withhold payment, set-off or make any deduction from any amount owing without SVC's prior written consent.
- (g) In the event that the processing of a payment by cheque, credit card, or otherwise attracts additional bank charges, collection fees or other expenses, the Customer must reimburse SVC for those additional expenses immediately on demand. Costs incurred by SVC in seeking payment of unpaid account will form a variation to that account.
- (h) To the extent permitted by law, all amounts paid under these Terms are non-refundable under any circumstances.
- (i) The Customer will also pay to SVC on demand, on a full indemnity basis, all amounts that SVC may, at its absolute discretion, expend or incur (including legal costs on a solicitor and own client basis) as a result of the Customer defaulting on any of the terms of these Terms.

- (j) The parties acknowledge that this clause is to be implemented in accordance with the SOPA.

5. Variations and cancellations

- (a) The prices quoted are based upon the drawings, specifications, bills of quantities, or nominated quantities detailed in your order.
- (b) In the event that you require any variation to be made after the date of our quotation, we reserve the right to adjust the quoted prices accordingly.
- (c) You may, prior to us commencing to produce made-to-order Goods for you or prior to us delivering to you Goods you have ordered which are in stock and are not made-to-order (as determined by us), by notice in writing request the cancellation of your order in part or in full. Except where such cancellation follows an amendment by SVC pursuant to clause 5(d), our acceptance of such request will be conditional upon you paying to us all expenses, including out-of-pocket expenses we have incurred prior to the date of our acceptance of your request and paying us for the time we have spent on your order. Until full payment of the amount notified by us is received, we are under no obligation to accept the cancellation request.
- (d) SVC may amend an order or cancel the delivery of Goods at any time before delivery by giving notice to the Customer by any means. If SVC amends an order, the Customer may without penalty cancel the order by written notice to SVC within seven days of the notice of amendment.

- (e) SVC shall not be liable for any Loss arising from such cancellation.

6. Dimensions

- (a) The Customer must supply all dimensions and any other information requested by us to us to enable us to comply with an order within the reasonable time-frame notified by us.
- (b) If shop drawings are required you must provide to us all dimensions, drawings and other information necessary for their preparation.
- (c) We reserve the right to submit shop drawings for your approval.
- (d) You must check the details and dimensions shown on any shop drawings and other information and plans submitted for approval and return same signed as approved and correct for manufacture or amended as required for re-submission. Unless you notify us otherwise, we are

entitled to assume such drawings, information and plans are correct.

- (e) All moulds, their designs, and any Confidential Information remains our property (including the intellectual property therein).

7. Delivery schedules, sequence of work and cost of delays

- (a) Delivery times set out in our quote are subject to review and change by us at the time of acceptance by you, taking into account your requirements but also the time required for the preparation and approval of shop drawings and the subsequent manufacture of moulds, the procurement of materials, fittings and equipment and any other preparatory work.
- (b) Any costs arising from alterations to the agreed sequence and program of manufacture or delivery caused by you will be paid for by you as a variation.
- (c) We reserve the right to charge for any delays, due to circumstances beyond our control, which require us to store Goods, or which require double handling or other expenses. Storage will be charged at the rate of \$5.00 per tonne per week.
- (d) SVC will use reasonable endeavours to deliver Goods to the Customer in accordance with the times stated in any Agreement between SVC and a Customer. However:
 - i. In the case of delivery, time will not be of the essence and SVC will not be liable to the Customer if delivery is not effected on time; and
 - ii. SVC shall not be liable for any Loss, arising from delay in delivery or failure to deliver Goods, either whole or in part, due to circumstances beyond its control (as determined by SVC acting reasonably), including any failure of the Customer to supply details or dimensions or to approve shop drawings.

- (e) SVC is under no obligation to deliver Goods if the full price of the Goods has not been paid and SVC has doubts as to the solvency of the Customer. SVC retains discretion to determine whether the Customer is solvent in accordance with this clause.

8. Delivery and acceptance

- (a) All Goods shall be delivered by SVC to the Delivery Point.
- (b) If SVC, or its servants or agents, obtain from any person at the Delivery Point a receipt of signed delivery docket for the Goods, SVC will be conclusively deemed

to have delivered the Goods in accordance with these Terms regardless of whether the person who signed had the authority to accept delivery.

(c) If the Customer does not take delivery of the Goods on the date specified in an Agreement between SVC and the Customer or any other date as notified by SVC to the Customer (other than as a result of any act or omission by SVC), payment for the Goods (if not already paid in full) will be due on the date specified and interest will accrue at the Default Rate until payment is made.

(d) If SVC is unable to deliver the Goods to the Delivery Point, because the Delivery Point is unattended or for any other reason (other than as a result of any act or omission by SVC), SVC may at its option leave the Goods at the Delivery Point, in which case SVC will not be responsible for any subsequent Claim of any nature, or for the storage of the Goods. If the Goods are stored by SVC, the Goods will be stored at the Customer's sole risk and the Customer shall pay or indemnify SVC for all costs and expenses incurred in or related to the storage of those Goods and SVC shall be at liberty to re-deliver them to the Customer from the place of storage at the Customer's expense. Regardless of whether the Customer accepts the Goods at the Delivery Point or if the Goods are left at the Delivery Point in accordance with this clause, the risk in the Goods passes to the Customer at the earlier of the time they are left at the Delivery Point or at the time the Goods are collected from SVC. Title in the Goods remains with SVC until the Goods have been paid for in full by the Customer and the Customer has paid any other amounts it owes SVC.

(e) The Customer must ensure that the Delivery Point is easily accessible, safe and secure. If the Delivery Point is not easily accessible or safe as determined by SVC acting reasonably, and as a consequence extra costs are incurred by SVC in unloading the Goods, those extra costs will be charged to and payable by the Customer to SVC.

9. Where goods are supplied on pallets

(a) A deposit per pallet is charged (as determined by us) and credited if pallets are returned at time of delivery of Goods.

(b) The return of pallets is the Customer's responsibility. Pallets held for more than 30 days, or returned in an unserviceable condition (as determined by us in our sole discretion), will be deemed to have been purchased by the Customer, the deposit will be forfeited, and those pallets will become the property of the Customer.

(c) At the Customer's request, SVC will collect pallets from metropolitan sites (as determined by SVC). This service will be provided free of charge if the collection can be effected when the delivery of Goods is being made to the site. Collections at other times will incur a \$5 per pallet charge.

10. Defects

(a) If the Customer is not a Consumer:

i. the Customer shall inspect the Goods upon delivery and will, within 7 days of delivery in the case of defects or missing items (short deliveries), and within 14 days of dispatch of the Goods from our premises (in the event we are not delivering the Goods), notify SVC of any defects, short deliveries or any failure to fulfill any quotation or order.

ii. The Customer will, within a reasonable time following the giving of a notice under clause 10(a), grant SVC access to the Goods in order to inspect for any alleged defects. In the event SVC disputes that there are defects in the Goods, the Customer must pay for the order in full and then has the option to commence the dispute resolution process.

iii. Should the Customer fail to notify SVC within the above specified period then the Goods shall be deemed to be in compliance with the order and free from any defect whatsoever.

iv. Any drawings or written or verbal descriptions of the Goods are general in nature, and actual Goods may vary from such descriptions. These descriptions are not warranties in relation to the Goods or their condition and, to the extent permitted by law, the Customer may not rely on these descriptions or Claim against SVC if Goods do not meet descriptions.

(b) If the Customer is a Consumer, SVC will provide a refund, or at the Consumer's option, arrange for the repair or replacement of the Goods (where practicable), for any Goods which are or become faulty through no fault of the Consumer, are not fit for a stated purpose or a purpose the Consumer has made known to our sales personnel in writing, or do not match a description or sample. The Customer must retain a copy of the receipt as proof of purchase. The Customer must lodge any request for a refund within the later of any mandatory warranty period under any applicable law and 30 days after the risk in the Goods passes to the Customer.

11. Warranties & Returns

(a) To the maximum extent permitted by law and that can be contracted out of, the parties agree that SVC gives no representations, warranties nor has any rights of obligations (including anything under the Competition and Consumer Act 2010 (Cth) in respect of the Goods and Services supplied.

(b) Returns will be accepted only if prior arrangements have been made with SVC and charges, including but not limited to re-stocking fees, may apply.

(c) Any costs associated with the return of Goods for the purpose of a warranty claim shall be the responsibility of the Customer.

(d) The Customer warrants to SVC that as at the date of these Terms and for the duration of these Terms:

i. all information provided to SVC is true and correct and it has disclosed all relevant information to SVC to assess the credit-worthiness of the Customer;

ii. it has the legal right and power to enter into these Terms;

iii. the execution, delivery and performance of these Terms by the Customer has been duly and validly authorised by all necessary corporate action on its part;

iv. these Terms are a valid and binding agreement on the Customer;

v. the Customer is not bankrupt or insolvent and no receiver, liquidator, administrator or receiver and manager has been appointed over any part of its assets and no such appointment has been threatened and no proceedings have been brought or threatened for the purpose of bankrupting or winding up the Customer;

vi. no partner, director or shareholder of the Customer is bankrupt, a discharged bankrupt or in any form of receivership, administration or liquidation; and

vii. it has the capacity to make the payment in accordance with these Terms.

12. Limitation of Liability

(a) Without limitation to any other clause in these Terms, the liability of SVC to the Customer for any reason related to the Goods shall be limited to the replacement or repair of the Goods, or the amount paid or payable by the Customer in respect of the particular Goods (at SVC's option).

(b) Without limiting clause 12(a), SVC is not liable in any circumstances whatsoever for:

- i. any loss of profits or contracts suffered by the Customer; or
- ii. any loss or damage suffered by the Customer in circumstances over which SVC has no control; or
- iii. any other Loss.

13. Personal Property Securities

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

- (a) The Goods are used by the Customer only for any commercial purposes and are not used by the Customer for personal, domestic or household purposes;
- (b) The Goods received by the Customer are not to be used as inventory;
- (c) By agreeing to and/or accepting these Terms the Customer grants to SVC:
 - i. A purchase money security interest in the Goods; and
 - ii. A security interest over all present and after acquired property of the Customer and the Guarantors to secure SVC all monies owing or payable by the Customer under these Terms and any other monies payable by the Customer to SVC from time to time on any account whatsoever;
 - iii. A non-lapsing caveat over any freehold or leasehold property;

(d) If a purchase money security interest is not able to be claimed by SVC in respect of the Goods for any reason, SVC will have a security interest in the Goods;

(e) SVC retains ownership of all of its own property (such as tools, and other materials it uses in the provision of the Goods as well as the Goods until they are fully paid for by the Customer), and SVC may register its interest in such property on the PPSR;

(f) The Customer agrees that SVC's security interest under these Terms may be registered on the PPSR and the Customer agrees to do all things necessary and required by SVC to effect registration of SVC's security interest on the PPSR in order to give SVC's security interest the best priority possible and anything else SVC requests the Customer to do in connection with the PPSA without delay;

(g) The Customer unconditionally and irrevocably appoints SVC as its attorney

to do any of acts and matters set out in this clause in the event that the Customer fails, delays or declines to execute such documents or do such acts;

(h) SVC's security interest under these Terms extends to any proceeds in all present and after acquired property including without limitation book debts and accounts receivable arising from the selling or hiring by the Customer of its property;

(i) The Customer waives its right under the PPSA to receive a copy of any verification statement, financing change statement, or any other notice under the PPSA unless the notice is required to be given by the PPSA and cannot be contracted out of; to object to a proposal by SVC to dispose of or purchase or retain any of the Customer's property in satisfaction of any obligation owed by the Customer to SVC; to receive a statement of account following the sale of the Customer's property; or to redeem the Customer's property.

(j) The parties agree that SVC is not required to respond to a request made under Section 275 of the PPSA and that neither party will disclose information of the kind set out in Section 275(1) of the PPSA.

(k) **Further Supplies:** The parties acknowledge and agree that any supply of Goods made by SVC to the Customer which is not specifically set out in the Schedule but for which SVC has or later issues a Tax Invoice or any other documentation to the Customer is deemed to form part of these Terms.

(l) **Enforcement:** The enforcement provisions contained in these Terms are in addition to any rights available to SVC under the PPSA.

(m) Without limitation to any provision of these Terms sections 125, 129(2), 142 and 143 of the PPSA are contracted out of.

14. Title

Until all monies have been paid by the Customer to SVC, title and property in all Goods supplied, notwithstanding the damage, destruction, or fixing to any asset or premises of any Goods, remain with SVC but the risk shall pass to the Customer upon delivery.

15. Indemnity & Release

(a) Except as provided under these Terms and to the extent permitted by law:

- i. the Customer:
 - a. releases SVC and its officers, employees and agents from any and all Claims by the Customer or any of its officers, employees, agents or invitees;

b. indemnifies SVC and its officers, employees and agents against any and all Claims made by third parties against SVC;

c. indemnifies SVC and its officers, employees and agents against any Loss suffered by or incurred by the Customer,

arising from any act, default, omission, negligence or breach of contract or otherwise, by the Customer or any of its directors, employees, agents or invitees, except to the extent (if any that) the Loss the subject of the Claim is caused by the fraudulent act or omission of SVC.

(b) SVC is not liable for any Claim or any Loss arising from any event or cause beyond the control of SVC including but not limited to:

- i. any act or omission of the Customer, including any delay caused by the Customer;
- ii. any problem caused by misuse, abuse, wear and tear or normal movement;
- iii. goods or appliances made by others;
- iv. any defect in, or problem caused by, work materials or goods supplied by the Customer; and
- v. any defect caused or contributed to by a failure of the Customer to follow any procedure recommended by SVC or by the manufacturer of any materials used by SVC in the provision of the Services.

16. GST

(a) If GST is payable on a taxable supply made under, by reference to or in connection with a Supply Contract, the party providing the consideration for the taxable supply must also pay the GST Amount as additional consideration. This clause does not apply to the extent that the consideration for the taxable supply is expressly agreed to be GST inclusive. No payment of the GST Amount is required until SVC has provided a tax invoice or adjustment note as the case may be to the recipient.

(b) Any reference in the calculation of consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any input tax credit entitlement of that party in relation to the relevant cost, expense or other liability. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the

consideration must be provided.

17. Termination

SVC may in its absolute discretion, by written notice to the Customer, immediately terminate these Terms, if the Customer:

- (a) Breaches any term of these Terms;
- (b) Becomes insolvent/bankrupt in the opinion of SVC.

18. Difficulties in Completion

If, due to any act or omission by the Customer or any person other than SVC or its employees, contractors or agents, it becomes impossible or impracticable for SVC to complete the Services:

- (a) All amounts payable by the Customer under these Terms immediately becomes due and payable; SVC may invoice the Customer for the balance amount which remains unpaid under these Terms, which sum shall be paid to SVC within 7 days of the date of the invoice; and/or SVC will not be responsible to complete the Services or provide any Goods until such time as it becomes possible and practicable to do so, nor shall it be responsible for any Loss occurring in the meantime.

19. Dispute Resolution

- (a) If a dispute arises out of or relates to these Terms other than through application of the SOPA, the parties agree to act in good faith to resolve the dispute by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to litigation or arbitration. The mediator is to be appointed by SVC within 14 days of a party being given a notice of dispute by the other. The parties must bear the costs of the mediator equally.
- (b) In the event the dispute is not resolved within 30 days of the appointment of the mediator, either party may institute legal proceedings against the other

20. General

- (a) **Variation:** To the extent permitted by law and the SOPA, SVC may vary the terms of these Terms at any time and will notify the Customer of the variation by providing written notice to the Customer.
- (b) **Entire Agreement:** These Terms is the entire agreement between the parties in respect of the Goods/Services.
- (c) **Governing Jurisdiction:** Each engagement for the provision of Goods/Services by SVC will be governed by and construed in accordance with Victorian law.

(d) **Confidentiality:** The Customer will ensure the confidentiality of the subject-matter contained within these Terms.

(e) **Assignment:** The Customer must not transfer or assign its rights under these Terms without the prior written consent of SVC. The Customer acknowledges and agrees that SVC may transfer, assign or otherwise dispose of its interest in these Terms without notice to the Customer.

(f) No oral explanation or information provided by a party to another affects the meaning or interpretation of these Terms or constitutes any collateral agreement, warranty or understanding.

(g) The parties must execute and deliver all documents and must do all things as are necessary for the complete performance of their respective obligations under these Terms.

(h) If a provision of these Terms is void or unenforceable it must be severed from these Terms and the provisions that are not void or unenforceable are unaffected by the severance.

(i) The rights and remedies of a party to these Terms are in addition to the rights or remedies conferred on the party at law or in equity.

(j) These Terms may be executed in any number of counterparts.

(k) The contra proferentem rule and other rules of construction will not apply to disadvantage SVC.

(l) Subject to clause 7(d)(i), time is in all cases and in every respect of the essence of these Terms.

Schedule 1		
1	Customer Name, ABN, Contact Details	
2	Goods and Services to be provided	
3	Delivery Point	
4	Guarantor/s (Director/s of the Customer)	