

Purchase Order Terms and Conditions

Application

1. The Supplier (you) shall be liable to the Contractor identified in the Purchase Order provided.
2. The Supplier shall supply and deliver the Goods and/or perform the Services specified in the Purchase Order upon receipt of the Purchase Order from the Contractor or as otherwise directed by the Contractor.
3. The Supplier must perform the Services at and deliver the Goods to the project Site stated in the Purchase Order or notified by the Contractor or other places specified by the Contractor.
4. By agreeing to supply the Goods or proceeding with the Services the Supplier accepts these **Purchase Terms** and the Purchase Order, including the Price. The Purchase Order, these Purchase Terms, and any Subcontractor agreement (where applicable) constitute an agreement between the parties (**Agreement**).

Definitions

ACL: means the Australian Consumer Law Schedule of the *Competition and Consumer Act 2010* (Cth) and its associated Regulations, as amended;

Contractor: means Grove Group entity referenced in the Purchase Order, including Grove (Aust) Pty Ltd (ACN 078 740 673), Grove Capital Pty Ltd (ACN 126 259 087), Grove Hire Pty Ltd (ACN 076 376 442), Grove Toilet Hire Pty Ltd (ACN 114 053 128), Grove Holdings Pty Limited (ACN 003 819 672), Grove Investments Pty Ltd (ACN 083 391 539), Grove Motorsport Pty Ltd (ACN 158 800 563), Breden Investment Group Pty Ltd (ACN 115 606 374) and Grove Superfoods Pty Ltd (ACN 635 827 860).

Delivery Date: means the date the Supplier is required by the Contractor to deliver the Goods or provide the Services to the Contractor, whether it is a single date or a delivery schedule as listed in the Purchase order.

Goods: means the goods and materials ordered by the Contractor from the Supplier pursuant to a Purchase Order.

Liquidated Damages: means the cost charged back to the Supplier for any delay or non-attendance in fulfilling their Offer.

Offer: means all offers, quotations and tenders to sell Goods or supply Services received by the Contractor from the Supplier.

Price: means the price for the Goods and Services set out in the Purchase Order, or as otherwise agreed by the parties in writing.

Purchase Order: means an official written purchase order for Goods or Services sent by the Contractor to the Supplier either by post, fax, email or other electronic means.

Purchase Terms: means these terms on which the Contractor purchases the Supplier's Goods and/or Services and comprise the Standard Terms and Conditions and any other terms written on or annexed to the Contractor's Purchase Order.

Services: means the services ordered by the Contractor from the Supplier pursuant to a Purchase Order.

Site: means the Contractor's sites and client sites.

Standards: means all laws, regulations, standards and guidelines relating to the design, manufacture, supply and use of the Goods and the supply of the Services.

Subcontractor Agreement: means any contract between the Supplier and a subcontractor to supply and deliver the Goods and/or perform the Services specified in the Purchase Order.

Supplier: means the person, firm or corporation from whom the Contractor has ordered the Goods and/or Services under a Purchase Order.

Basis of Agreement

5. Unless otherwise agreed in writing, and subject to Clause 9, these Purchase Terms apply exclusively to every Agreement and cannot be varied or replaced by any other terms or conditions (including any terms and conditions of sale proposed by the Supplier), regardless of whether or not they have been signed by the Supplier.
6. All quotations received by the Contractor from the Supplier will be deemed to be Offers. Such offers are valid for 60 days from the date received by the Contractor regardless of any notice, cancellation or withdrawal from the Supplier.
7. The Contractor's Purchase Orders must specify the Goods and Services, the quantity of the Goods, the scope of Services, the Delivery Date, and the Contractor's nominated delivery address and method.
8. Subject to Clause 10, the receipt of a Purchase Order from the Contractor by the Supplier will constitute the Supplier's acceptance to supply the Goods or Services to the Contractor on these Purchase Terms.
9. The Contractor's Purchase Order may impose additional terms to those set out in these Purchase Terms, which will prevail to the extent of any inconsistency with these Purchase Terms.
10. If a Purchase Order imposes additional terms on the Supplier, then, unless the Supplier rejects the Supplier's Purchase Order within 3 days of receipt, the Supplier is deemed to have accepted the Purchase Order and these Purchase Terms in full.
11. In addition to these Purchase Terms, all implied conditions and warranties contained in the Sale of Goods Acts and ACL and Fair Trading Acts of the various States and Territories in Australia will apply.
12. Except as expressly provided for in these Purchase Terms, the application of the United Nations Convention on Agreements for the International Sale of Goods (Vienna Convention) is expressly excluded from these Purchase Terms.
13. Once a Purchase Order has been raised by the Contractor for the scope of work outlined in the Offer, the Purchase Order will be binding based on the scope of work. Should the Supplier be unwilling or unable to complete the Offer, the Contractor has the ability to engage another Supplier to complete the works. Any difference in cost between the original Offer and that made by the new Supplier will be charged back to the original Supplier at the sole discretion of the Contractor. Furthermore, any delay in completing the scope of work beyond the original completion date due to finding a new Supplier may result in the Contractor charging Liquidated Damages to the original Supplier as per the Contractor's Sub-Contractor Agreement.

The Goods and Services

14. Where the Goods or Services to be supplied under this Agreement are supplied pursuant to provision of descriptions or samples made available to and examined by the Contractor, then this Agreement shall be a contract for sale by sample as well as being a contract for sale by description.
15. The Supplier guarantees that the Goods supplied are of acceptable quality and, where the purpose for which the Goods or Services are required has been made known to the Supplier (either expressly or impliedly), to be fit for that purpose.
16. Any representation as to the quality or characteristics of the Goods or Services referred to in these Purchase Terms or in previous communications in writing shall be deemed to be part of the Agreement.

Pricing

17. Prices quoted in an Offer are fixed, and cannot be increased unless the Contractor has requested a change to the Purchase Order.
18. Offers are valid for 60 days from the date of Offer until such time as the Contractor may place a Purchase Order. The Contractor may, in their sole discretion instruct the Supplier to extend their Offer for an additional 60 days.
19. Prices specified in Offers include all taxes, duties, freight costs, delivery, packing and crating, off-loading at the Site and insurance to the Site specified by the Contractor, unless separately specified.

20. The Price will not be varied by fluctuations in the rate or rates of currency exchange.

Completion and Payment

21. Time is of the essence in the Purchase Order and these Purchase Terms.
22. The Supplier must supply and deliver the Goods to the Contractor at the Site or other place nominated by the Contractor and/or carry out and complete the Services by the dates or the periods stated within the Purchase Order or as otherwise directed by the Contractor.
23. Delivery of the Goods shall be complete when the Contractor confirms in writing that the Goods have been delivered to the Contractor's reasonable satisfaction. The Services shall be complete when the Contractor confirms in writing that the Services are complete to the Contractor's reasonable satisfaction.
24. The Contractor:
- 24.1. will not be liable for any payment whatsoever to the Supplier unless that payment is the subject of a written Purchase Order, a Delivery Docket or an appropriate proof of delivery document approved by the Contractor, and the Supplier has supplied the Goods and/or completed the Services to the Contractor's satisfaction;
 - 24.2. accepts no responsibility for payment for Goods and Services other than against its Purchase Order and in accordance with these Purchase Terms;
 - 24.3. has no liability for payment for any Goods or Services if the Supplier cannot produce to the Contractor a delivery receipt signed by an authorised representative of the Contractor. The signing of any delivery receipt on behalf of the Contractor will not amount to an acceptance of the quality or quantity of the Goods or Services supplied; and
 - 24.4. may at any time and without notice to the Supplier set-off against moneys due to the Supplier where the Contractor has a bona fide claim that there is an amount payable or may be payable in the future from the Supplier to the Contractor (including liquidated damages) in connection with the Purchase Order or any other agreement between Contractor and Supplier or there is a debt due and payable by the Supplier to the Contractor that remains unpaid by the Supplier.
25. Reasonable time must be given for examination of the Goods as comprised in delivery and shall be subject to established claims for shortage, discrepancies or non-conformity with specifications.
26. Where the Goods the subject of an Agreement are for use by the Contractor's customer under the scope of a head contract with another party, the Contractor reserves the right to hold payment to the Supplier until such time as the Contractor receives payment from its customer.
27. The Supplier must supply the Goods and/or perform and complete the Services in accordance with:
- 27.1. the Purchase Order and to the Contractor's reasonable satisfaction;
 - 27.2. applicable legislative requirements (including, without limitation, the Building Code of Australia and Occupational Health & Safety (**OHS**) laws and regulations) and relevant Australian Standards in any way relating to the Goods or Services; and
 - 27.3. within the requirements of any authorities having jurisdiction over the Goods and Services.
28. Subject to these Purchase Terms, the Supplier will be paid by the Contractor under its standard payment terms of net 45 days from the end of the month in which the Goods and/or Services were supplied, provided that the invoice is received by the Contractor within 48 hours of the end of the calendar month in which the Goods and/or Services were supplied and contains the following information:
- 28.1. the Purchase Order number;
 - 28.2. the address of the Site;
 - 28.3. the Supplier's Australian Business Number; and
 - 28.4. the value of the Goods and/or Services supplied and/or performed by the Supplier.

29. If the Contractor does not receive the Supplier's invoice within 48 hours of the end of the calendar month in which the relevant Goods or Services were supplied, then:
- 29.1. the Contractor may process the Supplier's invoice in the following calendar month; and
- 29.2. the payment terms set out in clause 28 will apply from the end of that following calendar month.
30. In the event the Contractor pays for Goods or Services that are later deemed by the Contractor to be unsatisfactory, defective or incomplete, the Contractor may deduct either the reasonable value of or the cost to rectify or complete those Goods or Services from future payments to the Supplier and any shortfall shall be a debt due and payable by the Supplier to the Contractor.
31. The Supplier is not entitled to interest on unpaid monies, or for any other costs associated with recovery from the Contractor for unpaid monies.

Delivery requirements

32. The Supplier must include one (1) copy of the packing list with each delivery. Delivery documents must quote the Purchase Order number and must be accompanied by copies of daily dockets counter-signed by an authorised employee of the Contractor. The Supplier acknowledges that the Contractor reserves the right to not accept that delivery has been completed where the delivery is not accompanied by a packing list.
33. Goods delivered in error or over shipment in quantity will be returned at the Suppliers expense.
34. The signature of any of the Contractor's employees for Goods delivered is not to be taken as accepted of either the quantity or the quality of the goods indicated on delivery receipts.
35. Unless otherwise agreed in writing, all Goods ordered must be suitably packed and otherwise prepared for delivery, without additional charge to the Contractor.
36. If the Contractor has agreed in writing to pay the cost of freight and insurance:
- 36.1. the Goods must be packed and prepared in accordance with the carrier's requirements so as to secure the lowest transport and insurance rates; and
- 36.2. copies of carrier's invoices and insurance details must be supplied with the Goods.
37. The Contractor may direct that the Goods or Services be delivered to some place other than its nominated Site. If delivery to such other place is likely to result in an increase in the costs likely to be incurred by the Supplier:
- 37.1. the Supplier must give notice of such likely increase to the Contractor; and
- 37.2. the Contractor may either agree to the increase in cost, or reject the additional cost and direct the Supplier to make delivery to the original delivery address.

Property and Risk

38. Unless otherwise agreed in writing:
- 38.1. property in and ownership of the Goods will pass to the Contractor upon delivery of the Goods; and
- 38.2. risk in the Goods and Services and all insurance responsibility for theft, damage or otherwise remains with the Supplier until the Goods and Services are accepted by the Contractor in accordance with these Purchase Terms.

Warranties

39. Without limiting any other warranties provided by the Supplier to the Contractor, the Supplier warrants that:
- 39.1. it has the necessary skills, ability and capacity to provide the Goods and supply the Services;
- 39.2. the Contractor will have and enjoy quiet possession of the Goods;

- 39.3. the Goods and Services are supplied free from any encumbrance in favour of any third party;
- 39.4. it has examined and has actual knowledge of the Site and all information made available to, or provided to, or obtained by, the Supplier;
- 39.5. all Goods supplied by the Supplier, and all equipment used by the Supplier in completing the Services are suitable, new and free of defects;
- 39.6. all necessary consents, permits or authorities have been, or will be, obtained in order for the Supplier to supply the Goods or carry out and complete the Services;
- 39.7. it shall at all times be suitably qualified and experienced, and will exercise due skill, care and diligence in the execution and completion of the Services;
- 39.8. it shall, upon request, provide to the Contractor all documents and information necessary and incidental to the carrying out, completion and occupation (if applicable) of the Services, including, without limitation, all as-installed / built drawings and service manuals, warranties and guarantees, testing and calibration records, shop drawings, samples, and certificates of compliance;
- 39.9. it shall control, carry out and bring the Services to completion in a proper and workmanlike manner so that the Services, when completed, will be free of defects, comply with all the requirements of the Agreement, and shall be fit for their intended purpose in all respects;
- 39.10. it shall give the Contractor, and any other party nominated by the Contractor, access at all reasonable times to the Services;
- 39.11. it shall carry out the Services pursuant to the Agreement within working hours and days as the Contractor may instruct from time to time;
- 39.12. it will not register a security interest, as defined in section 12 of the *Personal Property Securities Act 2009* (Cth) (**PPSA**) in the Goods, or any part of the Goods, and agrees and acknowledges that sections 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA do not apply; and
- 39.13. it shall comply with all its obligations under the Agreement.
40. Minor items and services not expressly mentioned in the Agreement but which are necessary for the due and proper performance and completion of the Services to achieve a standard of work which is fit for purpose and within a level of finish consistent with the Agreement are deemed to be included as a part of the Services and the Supplier warrants that such items and services are included in the Price and will be supplied and executed by the Supplier at its own cost.

Indemnity

41. The Supplier indemnifies and will keep the Contractor indemnified from and against any and all costs, actions, claims, damages, expenses, losses and demands of any kind whatsoever suffered by the Contractor as a result of:
- 41.1. any breach of these Purchase Terms by the Supplier;
- 41.2. any claim for injury or death of any person, loss or damage caused in whole or in part by any act or omission of the Supplier, its servants and agents whilst executing a Purchase Order or making a delivery, and the Goods or Services the Supplier provides;
- 41.3. any claim with respect to the Goods or Services arising out of any latent or inherent defects;
- 41.4. any claim in respect to the Supplier's failure to comply with the Standards; or
- 41.5. any litigation or arbitration from any claim referred to above.
42. The Supplier recognises that the Contractor may be liable to its customers in respect of the Goods under the provisions of the ACL or otherwise, and as manufacturer of the Goods agrees to indemnify the Contractor on demand in respect of any such liability.

Liability

43. To the maximum extent permitted at law, the Supplier is liable for:
- 43.1. any and all direct, indirect and consequential losses or expenses suffered by the Contractor or any third party arising out of the Agreement or the use of the Goods or Services howsoever caused, including but not limited to loss of turnover, profits, business or goodwill, or any liability to any other party; and
- 43.2. any loss or damage suffered by the Contractor or any third party where the Supplier has failed to meet any Delivery Date, or cancels or suspends the supply of the Goods or Services, or supplies Goods or Services that are not in conformance with the Purchase Order. This includes but is not limited to:
- 43.2.1. the costs of freighting the Goods by air or other means to avoid a breach by the Contractor of its obligations under a contract with its customer;
- 43.2.2. liquidated damages claims;
- 43.2.3. loss of turnover, profits, business or goodwill; and
- 43.2.4. any liability or cost to any other party through rectification of the Supplier's actions.

Intellectual Property

44. The Supplier warrants that it owns or is licensed to sell any Goods or provide any Services that are the subject of any patent, trade mark, design, copyright or any other form of intellectual property rights.
45. The Supplier warrants that the supply of the Goods and Services does not and will not infringe any intellectual property rights of any third party. The Supplier indemnifies the Contractor against any and all liability, loss, damages and expenses arising out of any claim in respect of infringement or alleged infringement, of any intellectual property rights whether in Australia or overseas, relating to the Goods or Services.
46. The Supplier acknowledges and agrees that the Goods and Services purchased are for the Contractor's use and may be resold by the Contractor and/or may be incorporated in other products or subject to further processes of manufacture. Under no circumstances will the Supplier make any claim for royalty or other additional compensation by reason of such use or manufacture.
47. The ownership of the intellectual property in all materials provided by the Contractor to the Supplier remains with the Contractor, and the Supplier must promptly return all such material to the Contractor and immediately cease use of it, if requested by Contractor.
48. The Supplier assigns to the Contractor all right, title and interest to all trade marks, copyright, designs and patents in any material or works created by the Supplier specifically in relation to any Purchase Order.

Construction & Supply

49. Before the Supplier commences any work in respect of the Goods or Services, the Supplier warrants that it has and must have Work Cover, public liability and all other relevant insurances in place as notified by the Contractor to the Supplier.
50. The Supplier shall not proceed to carry out any Services on Site if in the Supplier's reasonable opinion the previous work on Site is unsatisfactory and unless the Contractor has issued a written instruction expressly overriding such opinion and accepting responsibility for the Services proceeding. Commencement of any Services on Site shall be evidence that the Supplier accepts all previous work on Site and requires no additional payment and that the Supplier shall be liable for any resultant or consequent defects or damage in the Services.
51. The Supplier must produce to the Contractor safe work method statements (**SWMS**) for all Services to be carried out by the Supplier in connection with the Goods and Services prior to the commencement of and at completion of such Services. If the Supplier fails to comply with any OHS laws and regulations, the Contractor may terminate the Purchase Order immediately by notice to the Supplier, without penalty, upon which the Supplier must cease all Services and/or vacate the Site.
52. The Contractor may direct when the Services are to be performed or when the Goods are to be supplied and the Supplier must co-operate with the Contractor and co-ordinate its performance of the Services and supply of the Goods with the activities of others engaged by the Contractor or on the Site and must immediately advise the Contractor if it cannot perform its obligations pursuant to the Agreement.

53. The Supplier accepts the risk of all physical conditions and artificial things on the Site and its near surrounds, including all time and cost implications and is not entitled to any extension of time, costs (including delay, disruption or prolongation costs), losses, expenses or damages arising from, relating to or in connection with any such conditions or things.
54. The Supplier must not vary (whether by increasing, decreasing or omitting) any part of the Services and/or carry out extra work except as directed in writing by the Contractor.
55. The Supplier is entitled to an extension of time for carrying out the Services as reasonably determined by the Contractor if the progress of the Services is delayed by an act, omission or default of the Contractor (including its principal, agents, or consultants).
56. The Supplier shall at all times during the provision of the Goods and Services:
- 56.1. ensure that its workers, employees and contractors at all times exercise all necessary precautions for the safety of all persons engaged in the performance of the Services or otherwise on Site and the public generally and comply with all legislative requirements in respect of workplace, OHS and directions of the Contractor concerning on Site induction and general safety; and
- 56.2. complete all necessary OHS documentation including but not limited to work method statements and job safety analysis sheets and the Supplier must be fully aware of and understand all material safety data sheets in relation to any and all plant and equipment used by the Supplier in connection with the Goods and Services.
57. The Supplier shall in the carrying out of its obligations pursuant to this Purchase Order on a daily basis clean up the Site and remove rubbish from the Site to the reasonable satisfaction of the Contractor. Any failure by the Supplier to comply with the provisions of this clause 57 shall entitle the Contractor to carry out those activities at the expense of the Supplier and that expense shall be deducted from any amount owing by the Contractor to the Supplier and any shortfall shall be a debt due and payable by the Supplier to the Contractor.
58. The Supplier must not without the written consent of the Contractor or the owner of the items referred to in this clause 58 use or install any goods, chattels, fixtures or fittings unless they are an exact match for those items they are replacing.
59. The Supplier must at all times ensure that it and its workers, employee, servants, agents and subcontractors comply with the Contractor's Code of Conduct as current from time to time and available on the Contractor's website: www.grovegroup.com.au. By accepting the Purchase Order, the Supplier shall be deemed to have read, understood and accepted responsibility to comply with The Grove Group Code of Conduct.

Rectification

60. The Supplier must rectify all defects or omissions in the Goods or Services identified before and during the defect's liability period. The defects liability period shall be 12 months commencing on the date of delivery of the Goods or completion of the Services in accordance with the Agreement.
61. If in the Contractor's reasonable opinion any aspect of the rectification work carried out by the Supplier pursuant to clause 60 is incomplete or requires further rectification work, the Contractor may advise the Supplier of the scope of the required rectification work and request the Supplier to provide an estimated commencement and completion date for that work, and the Supplier must comply with that request.
62. If the Contractor or its client reasonably refuses to allow the Supplier to carry out the rectification work by reason of the Supplier's inability to carry out that work or otherwise, the Contractor may engage another supplier to carry out the required rectification work.
63. The Supplier will be liable for the fair and reasonable costs of the rectification of the Supplier's Goods or Services (including any costs payable to a third-party supplier/contractor) incurred by the Contractor and any reasonable costs of the Contractor's client associated with temporary accommodation during the rectification works.

Termination and Suspension

64. The Supplier is in default of the Agreement if:
- 64.1. it fails to comply with any of its obligations under or otherwise breaches the Agreement;

- 64.2. in the Contractor's reasonable view, it fails to make progress so as to endanger timely and proper supply of the Goods or Services;
- 64.3. being an individual, commits an act of bankruptcy, has a bankruptcy petition presented against them or is made bankrupt; or
- 64.4. a company, is placed under official management, has a receiver, liquidator or administrator appointed to it or has a winding up order made in respect of it.
65. If the Supplier remains in default of the Agreement three [3] business days after the Contractor has given it a written notice requiring the default to be remedied then, without prejudice to any other rights or remedies under the Agreement or at law, and subject to any statutory stay of proceedings, the Contractor may:
- 65.1. itself or by others remedy the default, and the costs of remediation (including any administrative, supervision and legal costs on an indemnity basis, or alternatively on a standard basis) shall be a debt due and payable by the Supplier to the Contractor; and/or
- 65.2. by giving a further final written notice, suspend or terminate the Agreement.
66. If the Services are suspended, then the Supplier must recommence the Services as soon as reasonably practicable following a direction by the Contractor to do so, and the Supplier shall not be entitled to make any claim against the Contractor for losses, damages or costs arising out of or in connection with such suspension.
67. The Contractor is in default of the Agreement if it fails to pay the Supplier in accordance with the Agreement or is otherwise in breach of the Agreement.
68. If the Contractor remains in default of the Agreement three [3] business days after the Supplier has given it a written notice requiring the default to be remedied then, without prejudice to any other rights or remedies under the Agreement or at law, the Supplier may:
- 68.1. by giving a further written notice, suspend the Agreement; and
- 68.2. by giving a further final written notice no earlier than 10 business days after its notice of suspension, terminate the Agreement.

Dispute Resolution

69. If any dispute arises between the parties concerning the Agreement, then the parties must attempt to resolve any such dispute by the following dispute resolution procedure before resorting to alternative avenues, including litigation, provided that nothing herein shall preclude a party from seeking urgent interlocutory relief from a court:
- 69.1. The dispute resolution procedure is as follows:
- (a) if a party believes that a dispute has arisen, it must serve a dispute notice (**the dispute notice**) on the other party;
 - (b) the dispute notice must state that a dispute has arisen and give particulars of the dispute;
 - (c) (c) within three (3) days of service of the dispute notice, a representative of each party (**the representatives**) must meet and seek to resolve the dispute;
 - (d) failing resolution by the representatives, the parties may jointly request the appointment of a mediator and failing agreement within seven (7) days of service of the dispute notice, either party may apply to the Institute of Arbitrators and Mediators to appoint a mediator;
 - (e) once the mediator has accepted the appointment, the parties must comply with the mediator's instructions; and
 - (f) if the dispute is not resolved within thirty (30) days of the appointment of the mediator, or any other period agreed by the parties in writing, the mediation ceases.
- 69.2. The mediator's fees must be paid equally by the parties.

- 69.3. If the dispute is settled, all parties must sign the terms of agreement and those terms must be final and binding on the parties.
- 69.4. The mediation is confidential, and statements made by the mediator or the parties as well as discussions between the participants to the mediation before, after or during the mediation cannot be used in any legal proceedings.
- 69.5. The mediator is not bound by the rules of natural justice and may discuss the dispute with a party in the absence of any other party.
- 69.6. If the dispute is not resolved within 21 days of the dispute notice, and if it relates to second class claimable variations (as defined in section 10A of the *Building and Construction Industry Security of Payment Act 2002* (Vic) (**SOPA**)), then either party must within a further 21 days, by giving written notice to the other refer the dispute to expert determination. Expert determination is to be conducted by a suitably qualified, independent expert agreed by the parties or, failing agreement within 7 days, by an expert appointed by the Institute of Arbitrators and Mediators Australia. The expert determination shall be conducted in accordance with the Institute of Arbitrators and Mediators Australia's Expert Determination Rules (as amended from time to time).
- 69.7. Pursuant to section 18(4) of the SOPA, the authorised nominating authority to which any adjudication application must be made is the Resolution Institute, Rialto Adjudications or Building Adjudication Victoria.

Flooring

70. In the event that the Supplier carries out timber flooring Services, the Supplier must carry out relevant moisture testing of the substrates and of the product to be laid prior to installation to ensure that the substrates/product are suitable for installation.
71. The Supplier must obtain the Contractor or client's approval of the installation of the floor prior to commencement in relation to type, quality, size and all other relevant criteria.

Substrates

72. The Supplier must carry out, and by performing the Services is deemed to have carried out, a thorough inspection of the substrate existing at the Site or installed by the Supplier and acknowledges and agrees that the substrates are satisfactory and that the Supplier has no claims against the Contractor for any failure in the product after installation.

General

73. The Agreement contains the entire understanding and agreement between the parties as to the subject matter of the Agreement and all previous agreements, negotiations, warranties, understandings or representations, express or implied, in relation to that subject matter are superseded by the Agreement and have no effect (with the exception of the Subcontractor agreement), and no party shall be liable to the other party in respect of same.
74. The Subcontractor agreement supersedes these Purchase Terms to the extent of any inconsistency.
75. No oral explanation or information provided by any party to another shall affect the meaning or interpretation of this Agreement or constitute any collateral agreement, warranty or understanding between any of the parties.
76. This Agreement is governed by the laws of the State of Victoria, Australia. The Contractor and the Supplier submit to the exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia, and courts entitled to hear appeals from those courts.
77. The Supplier must not assign, sub-let or subcontract the Agreement or the Services without the Contractor's prior written consent. Any approval to assign, sub-let or subcontract will not discharge or relieve the Supplier from any liability or obligation arising out of or in connection with the Agreement and does not create or impose any obligation or liability on the Contractor. The Supplier is liable to the Contractor for the acts and omissions of any of its subcontractors, employees and agents of those subcontractors as if they were acts or omissions of the Supplier.
78. All its obligations, all warranties, representations and indemnities given by the Supplier and rights of the Contractor, arising out of or in connection with the Agreement capable of surviving termination or expiration of the Agreement, shall survive the termination or expiration of the Agreement, each constitute separate and independent obligations

from its other obligations under the Agreement and are given with the intent that liability is not confined to breaches discovered prior to the date of the Agreement.

79. None of the terms of the Agreement shall be varied, amended, waived, discharged or released (including, without limitation, by an action, omission, conduct or representation) except with the Contractor's prior written consent.
80. If a provision in the Agreement is held to be illegal, invalid, void, voidable or unenforceable, that provision shall be read down to the extent necessary to ensure that it is not. If it is not possible to read down a provision, that provision is severable without affecting the validity and enforceability of the remaining parts.
81. In the interpretation of the Agreement, no rule of construction applies to the disadvantage of a party on the basis that it prepared the documents forming part of the Agreement or any part of it.