



ADM SYSTEMS PTY LIMITED ABN 28 006 516 767 ("ADM").

## APPLICATION FOR COMMERCIAL CREDIT ACCOUNT

Payment terms are 30DAY EOM

<b>1. CUSTOMER:</b>	Name: .....	
	ACN: ..... ABN: .....	
	Trading Name: .....	
	Company Director(s): ..... ..... .....	
	Telephone: ( )	Facsimile: ( )
	Mobile: ( )	Email:
Business Postal Address:		
Business Delivery Address:		

<b>2. ACCOUNTS PAYABLE CONTACT:</b>	Name:	Email:
	Telephone: ( )	Facsimile: ( )
	Email address for Invoices to be sent to (one only):	

<b>3. CREDIT LIMIT REQUESTED:</b>	\$	<b>4. EXPECTED MONTHLY SPEND:</b>	\$
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**5. TRADE REFERENCES: (Complete a minimum of 3)**  
Please ensure that the companies you put down actually give trade references. We will not chase for additional references.

	Name	Address	Telephone	Email
1.			( )	
2.			( )	
3.			( )	
4.			( )	

6. PERSON COMPLETING THIS APPLICATION ("Agent") AND EXECUTION			
Name:		Position:	
Telephone: (    )		Email:	
Signature:	..... <b>Date:</b> ..... <i>(signed for and on behalf of the Customer)</i>		
By signing this application, the Customer hereby applies for a credit account with ADM and agrees that the Terms and Conditions of Trade accompanying this application will govern all dealings the Customer has with ADM. The Agent on behalf of the Customer <b>HEREBY REPRESENTS</b> and <b>WARRANTS</b> that the information set out in this application is true and correct and the Agent is duly authorised to sign this Application for Commercial Credit Account on behalf of the Customer.			

Email your completed form to: [accounts@admtech.com.au](mailto:accounts@admtech.com.au)

We endeavour to process your application within a few business days, however the time it takes will depend on how long your trade references take to return our request.



## TERMS AND CONDITIONS OF TRADE

To the fullest extent legally possible all contracts, dealings and/or arrangements made between the Customer and ADM relating to the Products are subject to the following Terms and Conditions of Trade unless otherwise agreed in writing.

### 1. Definitions:

In these Terms, unless the context otherwise requires:

- (a) "Accession" means any of the Products which are installed in, or affixed to, other goods;
- (b) "Acknowledgement" has the meaning given to it at clause 4(c);
- (c) "ACL" means Australian Consumer Law Schedule of the Competition and Consumer Act 2010 (C'th);
- (d) "ADM" means ADM Systems Pty Limited ABN 28 006 516 767;
- (e) "ADM Group" means each of ADM's subsidiaries, affiliates, associated companies and related entities;
- (f) "Amount Owning" means at any time all amounts payable by the Customer to ADM at that time in connection with the Products whether or not due for payment under these Terms;
- (g) "Assets" has the meaning given to it in clause 25(h)(i);
- (h) "Contract" means:
  - (i.) any contract to which these Terms are expressed to form part; and
  - (ii.) for the supply of Products pursuant to an Order, the contract (which includes these Terms) formed for the supply of the Products to the Customer upon an Acknowledgement;
- (i) "Customer" means the customer specified in the application for commercial credit that these Terms accompanies (or if there is no such application, the person or entity placing the Order, or on whose behalf the Order is placed, with ADM);
- (j) "Order" has the meaning given to it in clause 4(c);
- (k) "PPSA" means the Personal Property Securities Act 2009 (C'th);
- (l) "Processed Products" means Products which after their delivery, become part of a product or mass by being manufactured, processed, assembled, commingled or otherwise dealt with in such a way that their identity is lost in the product or mass;
- (m) "Products" means any goods, products, services and/or materials supplied, or to be supplied, by ADM to the Customer;
- (n) "Terms" means these terms and conditions of trade as modified or amended in relation to a particular Order by a written Acknowledgement or in accordance with clause 26; and
- (o) the terms "financing statement", "proceeds", "purchase money security interest", "security agreement", "security interest" and "verification statement" have the respective meanings given to them under, or in the context of, the PPSA;

### 2. Payments:

- (a) Payments are to be made to ADM without deduction or set-off of any kind and within 30 days end of month of ADM's invoice date unless otherwise agreed in writing by ADM or such other payment terms stipulated in ADM's invoice or correspondence.
- (b) ADM may apply a payment received from the Customer to any Amount Owning (including part payment of an invoice, administration, collection and other costs) in any order.
- (c) ADM is entitled to set-off or deduct against any Amount Owning, any amount payable by ADM to the Customer.
- (d) ADM may require the Customer to pay a credit card surcharge (in addition to any payment) of 1.15% plus GST of the payment amount where the Customer pays by credit card. The credit card surcharge percentage may be varied from time to time by ADM by notice to the Customer at the time of payment or otherwise, to reflect any change in the percentage charged by ADM's payment processor.
- (e) The Customer must pay ADM interest on ADM's overdue accounts at a rate of 12% per annum calculated daily.

### 3. Returns:

To the extent permissible at law (including under the ACL):

- (a) if ADM elects to take back Products, it must be in as new and saleable condition and upon terms agreed and a re-stocking fee will apply;
- (b) custom made or custom processed Products, or Products acquired by ADM specifically for the Customer, will not be returnable;
- (c) where ADM agrees in writing to accept a return of defective Products, such Products may be returned and will be replaced free of charge or be the subject of a credit for the invoiced value. "Free of charge" does not include labour, transport or material costs unless otherwise required by the ACL; and
- (d) unless prohibited under the ACL, the Customer must bear all costs of transporting the Products back to ADM's premises or such other location notified by ADM, where ADM agrees to the return of Products under this clause.

### 4. Placement of Orders:

- (a) To the extent permissible at law (including under the ACL), if any dispute arises concerning any Order (including any measurement, quality, quantity, identity, or authority or any telephone, facsimile, e-mail or computer generated order) the internal records of ADM will be conclusive evidence of what was ordered except in the case of manifest error.
- (b) The Customer acknowledges that each Order by the Customer constitutes a security agreement on the terms set out in these Terms, and that ADM may register a financing statement (or comparable notice in any other relevant jurisdiction) on behalf of itself in respect of the security interests provided for by the Orders and these Terms.
- (c) An order or an offer to purchase ("Order") can be made by the Customer in writing or verbally and is accepted when:
  - (i.) the Customer receives an acknowledgment of the Order from ADM;
  - (ii.) ADM appropriates the relevant Products for delivery to the Customer; or
  - (iii.) ADM delivers the relevant Products to the Customer, whichever first occurs ("Acknowledgement").
- (d) These Terms apply to every Order unless otherwise agreed in writing by ADM. Without limitation, acceptance of Products by the Customer is conclusive evidence that these Terms apply and are binding on the Customer.
- (e) ADM may set specific terms from time to time in relation to Orders such as, without limitation, a requirement that the Customer pay a deposit, make full pre-payment in relation to an Order etc. even if ADM has previously agreed to extend the Customer credit.

### 5. Purchase Price:

- (a) All sales are made by ADM at its ruling price at the time of delivery unless otherwise agreed in writing by ADM.
- (b) All government imposts and any GST will be to the Customer's account. ADM's price lists exclude such imposts and GST unless expressly noted thereon.
- (c) Any discount offered by ADM is at its complete discretion and will only be available provided the Customer is not in breach of any part of these Terms or in default in any of its dealings with ADM.

### 6. Quotations:

The Customer agrees:

- (a) formal quotations will be writing unless otherwise agreed by ADM;
- (b) ADM shall not be bound by any quotation if an order is placed outside the period of the quotation's validity noted thereon and in the absence of such period being noted, 60 days from the date of the quotation;
- (c) prior to receipt of any order ADM may amend a quote; and
- (d) ADM shall not be bound by any quote if the Customer is in breach of these Terms or any Contract.

### 7. Delivery:

- (a) To the extent permissible at law (including under the ACL), ADM accepts no responsibility for delivery but may elect to arrange delivery at its discretion and without any liability and at the Customer's costs and responsibility in all things.
- (b) ADM reserves the right to charge for any delivery.
- (c) To the extent permitted by law (including under the ACL) the Customer will be deemed to have accepted delivery and liability for the Products immediately after ADM notifies the Customer that they are ready for collection, when they are delivered to a carrier or to the Customer's business premises or site whether attended or not, whichever is the earlier.
- (d) A document (including without limitation a consignment note) purporting to be signed by an officer, employee or contractor of ADM confirming delivery will be conclusive evidence of delivery as will any signed delivery docket.
- (e) To the extent permissible at law (including under the ACL), ADM will not be liable for delay, failure or inability to deliver any Products.

### 8. Credit Line:

ADM can vary or withdraw any credit facility or limit at any time at its discretion and without any liability to the Customer or any other party.

### 9. Variation and Cancellation:

Variation or cancellation of any Order, Contract, dealing or arrangement must be on terms agreed in writing by ADM and terms which indemnifies ADM for any loss as a result of such cancellation.

- 10. Stock Discretion, Partial Delivery, Forward Orders:**
- (a) ADM has a continuing discretion to allocate available stock and gives no warranty as to certainty of supply unless expressly agreed in writing in advance.
  - (b) If the Customer places forward orders or request partial or instalment delivery, the Customer agrees:
    - (i.) to pay for so much of any order as is from time to time delivered by ADM: and
    - (ii.) that no delay or failure to fulfil any part of any order will entitle the Customer to cancel or vary any order or delay or reduce any payment.
- 11. Product and Services:**
- (a) ADM may update, modify, make substitution or alter any of its Products or any component or raw material incorporated in or used in forming any part of any Products as part of its ongoing business. The Customer agrees to accept current Products in substitution of any Products ordered provided they are not materially different.
  - (b) To the extent permissible at law (including under the ACL), ADM disclaims any responsibility or liability relating to any Products:
    - (i.) processed or made to designs, drawings, specifications or measurements etc. or with materials which are provided or approved (whether in part or fully) by or on behalf of the Customer; and/or
    - (ii.) utilised, sorted or handled incorrectly or inappropriately by the Customer or a third party.
  - (c) The Customer must not alter, modify or use Products in contravention of ADM's instructions, manufacturer guidelines or common or accepted industry practice.
- 12. Intellectual Property:**
- (a) If ADM utilises any design patent or intellectual property or follows any instruction provided by or on behalf of the Customer, the Customer indemnifies ADM against any claim, proceeding, damages or liability for any loss cost or expense arising as a result whether for any alleged infringement of any intellectual property or otherwise.
  - (b) The Customer must not advertise, use or represent any intellectual property of ADM or of any Products themselves in any way without the prior written consent of ADM.
  - (c) The Customer is not granted any right in ADM's processes or intellectual property by virtue of such processes or intellectual property being incorporated into a Customers' product.
- 13. Default and Recovery Costs:**
- (a) To the extent permissible at law (including under the ACL), default or breach by the Customer of these Terms, a Contract or in any dealings with ADM will entitle ADM to retain all monies paid, call-up all monies due or owing (whether currently due and owing or not) cease further deliveries and recover from the Customer all loss of profits without prejudice to any other of its rights under these Terms, a Contract or at law.
  - (b) The Customer will pay (on a full indemnity basis) all costs and expenses of ADM, its legal adviser, mercantile agents and others acting on its behalf in respect of anything instituted or being considered as a result of any breach of these Terms, a Contract or a breach of any dealings with ADM.
- 14. Guarantee:**
- Unless otherwise agreed in writing by ADM, the Customer agrees to procure each of its directors to execute an agreement to guarantee and indemnify in favour of ADM and in the form approved by ADM to be returned to ADM at the same time as the signed credit application or whenever requested in writing by ADM.
- 15. Indemnity:**
- To the extent permissible at law (including under the ACL), the Customer indemnifies ADM, and agrees to keep ADM indemnified against any claim or loss arising from or related in any way to any contract or dealing between ADM and the Customer or anything arising there from, or arising as a result of, or subsequent to, any breach of these Terms or any Contract by the Customer.
- 16. Force Majeure:**
- (a) ADM will be released from its obligations under these Terms and any Contract to the extent that performance of its obligations to the Customer (whether for the provision of Products or otherwise) is delayed, hindered or prevented due to any event or circumstance beyond the reasonable control of ADM and whether foreseeable or not including, without limitation, weather, shipping delays, industrial action, breakdowns and accidents.
  - (b) ADM will not be obliged to place the Customer's interests before ADM's commercial interests.
- 17. General Customer Obligations:**
- The Customer must:
- (a) at all times to act in utmost good faith with respect to ADM.
  - (b) not act in a manner which could adversely affect the reputation of ADM or the Products; and
  - (c) promptly advise ADM of all significant complaints, correspondence or comments relating to the Products from any source.
- 18. Attornment:**
- To give effect to its obligations arising under these Terms and any Contract, the Customer irrevocably appoints ADM and each of its authorised officers, jointly and severally, as its attorney to do any act or thing which the Customer is required to do under these Terms or any Contract, if the Customer is in default of its obligations (including executing and registering instruments). ADM may exercise its powers even if this involves a conflict of duty and even if it has a personal interest in doing so. A third party may rely on a copy of these Terms as evidence of the appointment of ADM and each of its authorised officers, jointly and severally, as the attorney of the Customer. The Customer must promptly ratify all acts and things done by ADM and its authorised officers in the exercise of the power of attorney granted under this clause.
- 19. Insolvency:**
- If the Customer commits or is involved in any act of insolvency as determined by ADM, it will be deemed in default under these Terms and all Contracts. An act of insolvency includes without limitation, bankruptcy, liquidation, receivership, administration or the like and failure to pay in accordance with these Terms or any Contract.
- 20. Privacy disclosure and consent:**
- The Customer irrevocably authorises ADM to:
- (a) obtain credit information about its personal, consumer and commercial credit worthiness from any bank or trade referee disclosed in any an application for commercial credit with ADM completed by it and provided to ADM and from any other credit provider or credit reporting agency for the purpose of assessing its application, or in connection with any guarantee given by the Customer;
  - (b) use, disclose or exchange with other credit providers and other members of the ADM Group information about the Customer's credit arrangements in order to assess its application for credit, monitor credit worthiness and collect overdue accounts; and
  - (c) disclose the contents of any credit report on the Customer to any related entities of ADM, and any of their solicitors, professional advisors or mercantile agents.
- 21. All Divisions:**
- The Customer agrees that:
- (a) these Terms will apply to all dealings between the Customer and a member of the ADM Group; and
  - (b) these Terms will be deemed incorporated into all Contracts with that member of the ADM Group on the basis that a reference in these Terms to ADM shall be deemed to be a reference to that ADM Group member, unless expressly agreed in writing otherwise by that member of the ADM Group.
- 22. Recalls:**
- In the event of a product recall the Customer must promptly give ADM such assistance as ADM reasonably requires in relation to that recall.
- 23. Exclusions:**
- (a) To the extent permissible at law (including under the ACL) or as otherwise provided under any Contract:
    - (i.) no dealing with the Customer will be deemed to be a sale by sample or description; and
    - (ii.) if ADM publishes material about its Products and prices, any part which is incompatible with these Terms or a Contract is expressly excluded.
  - (b) Except as expressly provided to the contrary in the Contract, all representations, warranties, guarantees and implied terms or conditions in relation to the Products (whether implied or otherwise) are hereby excluded to the maximum extent permitted by law.
  - (c) The Customer agrees that if it is aware (or should be aware) that the Products which are the subject of an Order, are for a particular purpose (including, but not limited to, use as a component part of another product) or are required to possess special or uniform characteristics, the Customer will noticeably specify in writing that purpose or those characteristics in any such Order.
  - (d) Unless expressly agreed by ADM in writing, the Customer agrees that it has made its own enquiries in relation to the suitability of the Products and does not rely on representations by ADM in relation to their suitability for a particular purpose or any steps which may need to be taken in relation to their use.
  - (e) To the extent permissible at law (including under the ACL), ADM is not bound by any warranty (and the Customer agrees not to make any claim against ADM in relation to any warranty) in respect of Products unless all Products have paid for in full without set-off or deduction of any kind.
  - (f) Unless otherwise stipulated by ADM, all Products supplied by ADM are warranted to be free from manufacturing defects for a period of 6 months from the date of purchase, or such greater warranty period as may be provided by the manufacturer of the Products. This warranty does not cover:
    - (i) problems caused by improper installation methods;
    - (ii) damage caused by improper maintenance;

- (iii) use of Products contrary to manufacturer recommendations; or
- (iv) normal wear and tear.

**24. Retention of Title and liability for Products:**

- (a) Immediately upon delivery, the Customer accepts risk and liability for the Products.
  - (b) A document signed by an officer of ADM:
    - (i.) identifying Products; and/or
    - (ii.) certifying that monies are owing to ADM, will be conclusive evidence of the same except in the case of manifest error.
  - (c) ADM retains legal and equitable title in any Products supplied, or to be supplied, to the Customer until full payment of the entire Amount Owing has been received by ADM. Until such full payment has been received, the following terms apply:
    - (i.) Notwithstanding that title in the Products remains with ADM until full payment, the Customer may sell or use the Products in the ordinary course of the Customer's business. As between the Customer and the purchaser of any item of the Products, the Customer sells as principal and not as agent of ADM. The proceeds of sale of each item of Products must be held by the Customer in a separate fund on trust for ADM and the Customer is under a duty to account to ADM for such proceeds. The creation of, or any failure of, any such trust shall not in any way limit the obligation of the Customer to pay an amount to ADM for Products supplied.
    - (ii.) Until Products are sold (if applicable), the Customer must keep the Products safe and free from deterioration, destruction, loss or harm, clearly designate the Products as the property of ADM, store them in such a way they are clearly identified as the property of ADM and keep full and complete records, firstly, of the physical location of the Products and, secondly, the ownership of the Products by ADM.
    - (iii.) ADM is irrevocably entitled at any time and from time to time before sale of any item of Products by the Customer to inspect or to recover and retake possession of such Products and otherwise exercise in relation to the Products, any of its rights whether those rights are as owner and/or unpaid seller or otherwise and whether those rights are conferred by common law, contract, statute or in any other way. In order to exercise such entitlement, ADM and its agents are irrevocably authorised by the Customer to enter any of the Customer's premises or vehicles or those of any third party. The Customer agrees to obtain the consent of any such third party to such entry by ADM and to indemnify ADM and its agents for any liability arising from any entry upon its, or third parties', premises or vehicles. ADM and its agents agree to take all reasonable care in removing the Products from such premises or vehicles but, to the extent this liability may be disclaimed by law, are not liable for any damage or injury to such premises caused by the removal of the Products.
    - (iv.) The Customer may only install or affix the Products to other goods (so that they become an Accession to those other goods) or use or permit the Products to be manufactured, processed, assembled, commingled or otherwise dealt with (so that they become Processed Products) in the ordinary course of its normal business.
    - (v.) The reservation of title and ownership under this clause 24 is effective whether or not the Products have been altered from their supplied form, or commingled with other goods.
  - (d) The retention of title arrangement described in this clause 24 constitutes the granting of a purchase money security interest by the Customer in favour of ADM in respect of all present and after acquired Products supplied by ADM to the Customer. The Customer must immediately, if requested by ADM, sign any documents, provide all necessary information and do anything else required by ADM to ensure that ADM's purchase money security interest is a perfected security interest and the provisions of clause 25 will apply.
  - (e) The Customer will not enter into any security agreement that permits any other person to have or to register any security in respect of the Products or any proceeds from the sale of the Products, until ADM has perfected its purchase money security interest.
- 25. Security:**
- (a) The Customer grants to ADM a security interest in the Products to secure payment of the Amount Owing. The security interest extends to and continues in all proceeds, Accessions and Processed Products, and is a purchase money security interest to the extent to which it secures payment of that part of the Amount Owing which comprises the aggregate unpaid purchase price of the Products.
  - (b) The Customer consents to ADM effecting a registration on the PPSA register (in any manner ADM considers appropriate) in relation to any security interest contemplated by these Terms and further agrees:
    - (i.) to do all things necessary and required by ADM to make sure that the security interest is registered; and

- (ii.) that it must not do, or permit anything to be done, that may result in the purchase money security interest granted to ADM ranking in priority behind any other security interest.

- (c) To the extent that the Products are for the Customer's business use, the Customer agrees to the extent permitted under the PPSA, that the Customer has no right:
  - (i.) to receive notice of removal of an accession under the PPSA;
  - (ii.) under Chapter 4 if the PPSA; or
  - (iii.) under the PPSA to receive a copy of any verification statement or a financing statement under the PPSA.
- (d) Without in any way limiting clause 25(a) the Customer agrees that to the extent permitted under the PPSA, the Customer hereby waives its rights under sections 95, 96, 117, 118, 120, 121 (4), 123, 125, 126, 128, 129, 130, 132, 134, 135, 142 and 143 of the PPSA.
- (e) Unless otherwise agreed to in writing by ADM, the Customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- (f) The Customer must not assign or grant a security interest in respect of any accounts owed to it in relation to the Products without ADM's prior written consent.
- (g) Without limiting any other provision of these Terms or any Contract, if the Customer makes a payment to ADM at any time whether in connection with the supply of Products or otherwise, ADM may at its absolute discretion apply that payment to first satisfy obligations that are not secured, then obligations that are secured, but not by a purchase money security interest, in the order in which those obligations were incurred, and then obligations that are secured by a purchase money security interest in the order in which those obligations were incurred.
- (h) The Customer agrees that:
  - (i) despite anything to the contrary contained in these Terms and any Contract, or any other rights which ADM may have howsoever, where the Customer is the owner, or becomes the owner in the future, of land realty or any other asset capable of being charged or mortgaged ("Assets") the Customer agrees to promptly, upon ADM's written request, to mortgage and/or charge all of their joint and/or several interest in the Assets to ADM to secure all amounts and other monetary obligations payable by the Customer to ADM;
  - (ii) it grants a lien to ADM over all of its property in the possession or control of ADM until all Amounts Owing have been paid in full;
  - (iii) it will on demand execute any documents and to do all things requested by ADM to register a mortgage or such other security ADM requires over any current or later acquired real property the Customer has an interest in; and
  - (iv) it consents unconditionally to ADM lodging a caveat noting ADM's interest in any Assets the Customer has an interest in.

**26. The Competition and Consumer Act 2010 (Cth) and Fair Trading Acts:**

- (a) Nothing in these Terms or any Contract is intended to have the effect of contracting out of any applicable provisions of the Competition and Consumer Act 2010 (Cth) or the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.
- (b) If the Customer is a consumer for the purposes of the ACL, nothing in these Terms or any Contract limits any remedy available for a failure of the guarantees in sections 56 and 57 of the ACL.

**27. Limitation of Liability:**

- (a) This clause 27 is subject to any contrary provisions of any applicable law (including without limitation the ACL), the operation of which cannot be excluded.
- (b) Except as provided in clause 27(c), ADM's liability for a breach of these Terms, a Contract, a condition, warranty or a guarantee of supply or in relation to defective goods and services or for Products not meeting specifications, is limited to (at ADM's election):
  - (i.) in the case of goods ADM supplies:
    - A. the replacement of the goods or the supply of equivalent goods;
    - B. the repair of the goods; or
    - C. the payment of the cost of replacing the goods or of acquiring equivalent goods;
  - (ii.) in the case of services ADM supplies, the supplying of the services again, and the Customer will limit any claim upon ADM accordingly.
- (c) If goods or services ADM supplies are of a kind ordinarily acquired for personal, domestic or household use or consumption, and there is a "major" failure of the goods or services to meet any consumer guarantee under the ACL then the Customer may choose one of the following remedies:
  - (i.) in the case of goods ADM supplies:
    - A. ask for a refund;
    - B. return the goods and ask for an identical replacement, or one of similar value if reasonably available; or

- C. keep the goods and ask for compensation for the drop in value caused by the problem; or
- (ii.) in the case of services ADM supplies:
  - A. cancel the contract and pay a reasonable amount for the work done, or seek a refund; or
  - B. for money already paid, keep the contract and negotiate a reduced price for the drop in value of the service — this may mean asking for some of the money back the Customer has already paid.
- (d) ADM will not be liable in any way for any contingent, consequential, direct, indirect, special or punitive damage arising whether due to ADM's negligence or otherwise and the Customer acknowledges this limit of liability and agrees to limit any claim accordingly;
- (e) ADM will not be liable for any claim relating to or arising from any alleged fault or defect, caused or contributed to by the Customer or any third party.
- (f) No other term, condition, agreement, warranty, representation or understanding whether express or implied in any way extending to or otherwise relating to or binding upon ADM is made or given except where done so in writing and signed by an authorised officer of ADM or is explicitly set out in these Terms or any Contract; and
- (g) To the extent permissible by law, and subject always to the warranty provided at clause 23(f), ADM will not be liable for any claim arising after 7 days from delivery of Products or performance of services (or at all once Products have been unpacked, modified, on-sold or otherwise used or applied) after which there will be deemed to be unqualified acceptance.

**28. Adverse Environments:**

The Customer acknowledges that Products can be adversely affected by severe environments, temperature extremes, frost, wind borne salt or abrasives which cause flaking, eat-away finish and reduce expected operating life especially in seaside locations.

**29. Entire Agreement**

- (a) The Contract for the supply of Products pursuant to an Order constitutes the entire agreement between ADM and the Customer

- (b) Any terms and/or conditions sought to be imposed by the Customer upon ADM will not apply unless expressly agreed in writing by ADM as overriding or replacing these Terms.

**30. General:**

- (a) **Notices:** Any notice under these Terms or any Contract must be in writing, and may be delivered, faxed or posted to a party at their address or facsimile number last notified by them to the other party. A party may change its address or number for notices by notifying the other party.
- (b) **Waiver:** If ADM elects not to exercise any rights arising as a result of breach of these Terms or a Contract, it will not constitute a waiver of any rights relating to any subsequent or other breach.
- (c) **No Merger:** Termination of these Terms, a Contract and/or dealings between the Customer and ADM will not end those provisions of these Terms that are capable of surviving termination.
- (d) **Severability:** If a provision of these Terms or a Contract would but for this clause, be unenforceable, that provision must be read down to that extent necessary to avoid that result and if that provision cannot be read down to that extent, it must be severed without altering the validity and enforceability of the remainder of these Terms and Contract.
- (e) **Trusts:** The Customer agrees that these Terms and all Contracts bind it not only in its own capacity, but also as the Trustee of every trust of which it is a trustee.
- (f) **Set-Off:** ADM will be entitled to set off against any money owing to the Customer amounts owed to ADM by the Customer on any account whatsoever. However the Customer may not set off any amounts owing by ADM to it against any amount due by it to ADM.
- (g) **Jurisdiction:** All contracts made with ADM will be deemed to be made in the State of Victoria and the parties submit to the non-exclusive jurisdiction of the appropriate Courts in or nearest Melbourne in that State.