



## HENKEL AUSTRALIA STANDARD TERMS OF SUPPLY

### **1. DEFINITIONS**

In these Terms and in any contract to which these Terms apply:

"Business Day" means a day other than a weekend or public holiday in the place where Goods are delivered;

"Claim" means any judgment, claim, demand, action, suit or proceeding for damages, debt, restitution, equitable compensation, account, injunctive relief, specific performance or any other remedy, whether by original claim, cross claim or otherwise whether arising at common law, in equity, under statute or otherwise wherever arising, whether known or unknown at the time of this Contract, whether presently in contemplation of the parties or not;

"Consequential Loss" means loss or damage, whether direct or indirect, in the nature of, among other things, loss of profits, loss of revenue, loss of production, liabilities in respect of third parties (whether contractual or not), loss of anticipated savings or business, pure economic loss, loss of opportunity and any form of consequential, special, indirect, punitive or exemplary loss or damages, ;

"Contract" means the contract between the Supplier and the Customer for or in relation to the sale and purchase of Goods, and includes these Terms together with the Supply Agreement; "Customer" means the person to whom Goods are supplied by the Supplier or who is named as purchaser in the relevant order form or sales invoice, and its successors;

"Goods" are the goods being provided by the Supplier to the Customer under the Contract and may include services;

"Loss" means, in relation to any person, any damage, loss, cost, expense or liability incurred by the person or arising from any claim, action, proceedings or demand made against the person, however arising and whether present or future, fixed or ascertained, actual or contingent and includes Consequential Loss;

"Modern Slavery Act" means the *Modern Slavery Act 2018* (Cth), as amended;

"Personal Information" means personal information with the meaning of the Privacy Act; "PPSA" means the *Personal Property Securities Act 2009* (Cth), as amended;

"Privacy Act" means the *Privacy Act 1988* (Cth), as amended;

"Supplier" means Henkel Australia Pty Limited ABN 82 001 302 996, and its successors; "Supply Agreement" means the supply agreement between the Supplier and the Customer for or in relation to the sale and purchase of Goods.

"Terms" means these standard terms.

### **2. GENERAL**

2.1 These Terms and the Supply Agreement (together the "Contract"), govern all orders, supplies and related dealings between the Supplier and the Customer (the "Parties") in relation to the sale and purchase of Goods. The Contract supersedes all previous communications between the Parties and overrides all terms to the contrary, including any different or additional terms specified in the Customer's order, unless expressly agreed to in writing by the Supplier. In case the Supply Agreement differ from these Terms, the former will prevail to the extent of any inconsistency.

2.2 No other representations, warranties, terms or conditions, whether express or implied, are binding on the Supplier, with the exception of those which are agreed to in writing and signed by the Supplier, or those which are implied by law and cannot be excluded by express agreement.

2.3 Notwithstanding the above, any special conditions specified by the Supplier on a quotation or sales invoice, as agreed between the parties in writing, will, to the extent they are inconsistent with these Terms, take precedence over the Contract.

2.4 If any of these Terms is invalid it will be read down to the extent necessary to make it valid or, if that is not possible, severed from these Terms without affecting any other Term.

2.5 By placing an order or accepting a delivery of Goods, the Customer is deemed to have agreed to these Terms and this Contract.

### **3. ORDERS**

3.1 The Supplier may decline to accept any orders in whole or in part. Orders are subject to availability of the goods. No cancellation of an order by the Customer will be valid without the Supplier's written consent.

3.2 The Customer acknowledges that any description of the Goods is given by way of identification only and no order placed pursuant to these Terms constitutes a sale by description or sale by sample.

3.3 If an order requires multiple deliveries over an extended period of time (forward orders), the Customer will pay for so much of any forward order as is from time to time invoiced by the Supplier.

3.4 The Customer must take delivery of, and pay for, all Goods obtained for or held at the Customer's request.

### **4. PRICES & TAXES**

4.1 The purchase price of Goods will be the amount quoted by the Supplier to the Customer in writing that is subsequently included in an order for Goods that has been accepted by the Supplier or, where no price has been quoted, the price as specified in the Supplier's current price list ("Purchase Price"). The Supplier may vary any prices quoted prior to any order being accepted (in which case the Customer may elect to order the Goods at the varied price or cancel their order).

4.2 The consideration for any supply made by the Supplier to the Customer, including the Purchase Price, excludes GST (unless

otherwise specified) and other applicable duties and taxes which must be paid by the Customer at the same time and in the same manner as the consideration.

4.3 Any payments made by the Supplier to the Customer are subject to any withholding required by law.

4.4 Any rebates, discounts or reductions calculated by reference to consideration are to be calculated on the consideration excluding any amount in respect of GST.

4.5 Where payment is made by credit card, the Supplier may charge an administration fee.

4.6 Any increase in the cost of supply of the Goods before delivery will be paid by the Customer (but only to the extent such increase is reasonable and reflects the actual cost of supply).

4.7 The Supplier may vary the Purchase Price of future orders not yet accepted by the Supplier by giving written notice of variation to the Customer.

## **5. TERMS OF PAYMENT**

5.1 The Customer must pay the Supplier for Goods in full within 30 days of date of invoice ("Due Date"), unless otherwise agreed in writing.

5.2 If the Customer does not make payments in accordance with these Terms or the Customer's credit rating changes, the Supplier may take any or all of the following actions:

a) charge interest on all overdue amounts at an annual rate equivalent to the Official Cash Rate set by the Reserve Bank of Australia plus 2%, calculated monthly from the day after the Due Date until the date of payment (inclusive);

b) Upon giving 7 days' written notice to the Customer, suspend delivery of any Goods that are the subject of the Contract or any other Goods until payment is made in full;

c) Upon giving 7 days' written notice to the Customer, review and amend the terms of payment for future orders by the Customer; or

d) withdraw its credit facility to the Customer.

## **6. DELIVERY**

6.1 Under these Terms, "delivery" occurs when the Customer takes delivery of the Goods personally or through its agent or contractor including when the Supplier delivers the Goods to a carrier engaged on behalf of the Customer for delivery or, where the Goods are to be collected, when the Supplier notifies the Customer that the Goods are ready for collection.

6.2 Delivery will be *CIP (destination) Incoterms® 2020*, unless agreed otherwise by the Parties. The Customer must take delivery of the Goods within 5 Business Days of being notified that the Goods are ready for delivery ("Collection Date"). If the Customer causes any delay in delivery, the Goods are deemed to have been delivered to the Customer on the Collection Date and thereafter the Supplier holds the Goods as bailee for the Customer and the Customer is liable for the cost of storing the Goods beyond the Collection Date.

6.3 The Supplier reserves the rights to charge reasonable additional delivery fees in relation to special or expedited orders, or where an order is for less than the minimum quantity of Goods specified by the Supplier from time to time.

6.4 The Supplier will make reasonable efforts to arrange delivery of the Goods by the date for delivery specified in the order ("Delivery Date"), however the Delivery Date is an estimate only and is not a condition of the Contract.

6.5 The Customer must provide any necessary particulars or instructions to the Supplier within a reasonable time to enable the Supplier to complete the Customer's order.

6.6 The Supplier may make instalment deliveries and each instalment delivery will be deemed to be a separate contract to which these Terms apply. Failure by the Supplier to deliver any instalment will not entitle the Customer to cancel the balance of the order.

## **7. INSPECTIONS AND ACCEPTANCE**

The Customer must inspect all delivered Goods and give notice to the Supplier within 5 Business Days of delivery if the Goods are not in accordance with the Customer's order. Failing such notice and subject to any non-excludable condition implied by law, the Goods will be deemed to have been delivered to and accepted by the Customer.

## **8. RISK AND TITLE**

8.1 The risk of Loss or damage to the Goods will pass to the Customer when the Customer takes delivery of the Goods.

8.2 Subject to Clause 6.2, the Customer must insure the Goods from the time that risk passes to the Customer against all usual risks and, until the Supplier has been paid for them, and holds any moneys received from any insurer relating to those Goods for the benefit of Supplier.

8.3 The Supplier retains title to the Goods, and title to the Goods does not pass from the Supplier to the Customer, until the Customer pays in full all amounts that are payable, owing but not payable, or that otherwise remain unpaid by the Customer to the Supplier on any account at any time ("**Amounts Owed**"). This is so even if the Customer has taken possession of the Goods.

8.4 The Goods, proceeds and any product or mass that the Goods may be or become part of are referred to in these Terms collectively as the **Collateral**.

## **9. PERSONAL PROPERTY SECURITIES ACT 2009 (CTH) ("PPSA")**

9.1 The Customer will not create any other security interests in the Goods until title passes to the Customer.

9.2 Until title to the Goods passes from the Supplier to the Customer in accordance with sub-clause 8.3, sale of the Goods by the Customer to associated or related entities for further resale or use is not permitted.

9.3 The Customer undertakes, if it disposes of any Collateral, that it will receive proceeds at least equal to the market value of the Collateral, and that it will not allow any other security interest to exist over those proceeds if that security interest could

rank ahead of the Supplier's security interest. If such a security interest does arise despite the previous sentence, the Customer must ensure that it receives cash proceeds for the Collateral at least equal to the market value of the Collateral, and must immediately pay those proceeds to the Supplier in reduction of the amount owing.

9.4 The Supplier can apply amounts it receives from the Customer, including under sub- clause 9.3, towards amounts owing to it in such order as the Supplier chooses.

9.5 To the extent the law permits:

a) for the purposes of sections 115(1) and 115(7) of the PPSA: (i) the Supplier need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and (ii) sections 142 and 143 are excluded;

b) for the purposes of section 115(7) of the PPSA, the Supplier need not comply with sections 132 and 137(3); and

c) if the PPSA is amended after the date of this document to permit the Customer and the Supplier to agree to exclude other provisions of the PPSA, the Supplier may notify the Customer that the Supplier need not comply with any of those provisions as notified to the Customer by the Supplier.

9.6 The Customer:

a) consents to the Supplier registering a security interest on the Personal Property Securities Register under the PPSA in relation to the Collateral and the Customer will provide all assistance reasonably required to facilitate this; and

b) waives: (i) its rights to receive any notice that is required by: (A) any provision of the PPSA (including a notice of a verification statement) or (B) any other law before the Supplier exercises a power, right, discretion or remedy; and (ii) any time period that must otherwise lapse under any law before the Supplier exercises a power, right, discretion or remedy. If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer). However, nothing in this clause prohibits the Supplier from giving a notice under the PPSA or any other law.

9.7 The Supplier and the Customer agree not to disclose information of the kind mentioned in section 275(1) of the PPSA, except in the circumstances required by sections 275(7)(b) to (e) of the PPSA and except to their respective related bodies corporate, officers, employees or professional advisers. The Customer agrees not to exercise its rights to make any request of the Supplier under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non- disclosure under that section (but this does not limit the Customer's rights to request information other than under section 275).

## **10. DEFAULT OF CUSTOMER**

10.1 The following events are "Events of Default":

a) (where the Customer is a corporation) the Customer is or becomes insolvent or any order is made or resolution passed for its winding up or the appointment of a provisional liquidator or an administrator is appointed to it or a manager, receiver or controller is appointed over all or any part of the Customer's assets; or

b) (where the Customer is a natural person) the Customer is or becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of creditors; or

c) the Customer fails to make any payment to the Supplier when due; or

d) the Customer breaches any of clauses 5, 23 or 24 of the Contract;

e) the Customer breaches any term of the Contract which is not cured within 14 days of written notice of the breach ;

f) the Customer does not comply with any applicable law and regulation relating to the Goods, including obtaining and maintaining licenses and consents as may be necessary or implied for the performance of its obligations under the Contract;

g) the Customer engages in misconduct which is detrimental to the best interests of the Supplier;

h) the Supplier believes that its Goods are at risk of being disposed or otherwise than in accordance with these Terms or its title to those Goods is being challenged.

10.2 Without limiting clause 5 of these Terms, upon the happening of an Event of Default, the Supplier may:

a) decline to deliver any unpaid Goods;

b) recover the cost of storing paid Goods which have not been delivered to the Customer; and/or

c) upon giving 3 days' written notice to the Customer, suspends and ceases to perform any and all of its obligations to the Customer; and/or

d) terminate the Contract or any other contract between the Parties ; and/or

e) demand that the Customer return any Goods for which there are Amounts Owing, and upon demand the Customer must return such Goods; and/or

f) (without prejudice to any of its other rights) upon giving 3 days' written notice to the Customer may take possession and recover the Collateral and otherwise enforce its security interest in the Collateral, and the Supplier may retain or resell or otherwise dispose of the Collateral without notice to the Customer, and the Supplier may enter any premises occupied by the Customer and remove the Collateral for those purposes.

10.3 The Customer will pay the Supplier all costs and expenses (including legal fees) incurred by the Supplier or its agents in relation to enforcing its rights and in recovering any Amounts Owing by the Customer to the Supplier.

10.4 If the Supplier exercises a power, right, discretion or remedy in connection with these Terms, that exercise is taken not to be an exercise of a power, right, discretion or remedy under the PPSA unless the Supplier states otherwise at the time of exercise. However, this clause does not apply to a power, right, discretion or remedy which can only be exercised under the PPSA.

10.5 The Customer must promptly do anything the Supplier requires to ensure that its security interest is a perfected security interest and has priority over all other security interests.

10.6 The Terms survive the termination of any agreement into which the Terms are incorporated.

## **11. LIMITATION OF LIABILITY**

11.1 To the fullest extent permitted by law and subject to clause 12.1, all terms which might be implied by statute are excluded and:

- a) the Supplier's liability for any Claim whatsoever relating to the Goods whether pursuant to contract, tort, statute law or otherwise howsoever is limited, at the Supplier's election, to the replacement of the Goods or supply of equivalent goods by the Supplier; and
- b) the Supplier is not liable for any direct or indirect Loss howsoever incurred by the Customer in connection with the supply or failure to supply the Goods, unless such Loss is incurred by reason of a willful act or default of the Supplier.

## **12. CONSUMER GUARANTEES**

12.1 Where the Customer is a consumer within the meaning of section 3 of Schedule 2 to the *Competition and Consumer Act 2010* (Cth) ("ACL") the ACL provides certain guarantees in relation to the Goods that cannot be excluded. Where the Customer purchases the Goods as a consumer within the meaning of the ACL and the Goods are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the Supplier's liability for breach of any condition, guarantee or warranty implied by the ACL is to the extent permitted by the ACL limited to:

- a) in the case of goods - to the repair of the goods, or, at the Supplier's option, the replacement of the goods or the supply of equivalent goods or the payment of the cost of repair, replacement or supply of equivalent goods; and
- b) in the case of services - to the resupply of those services or payment of the cost of having those services resupplied.

12.2 If the Customer is a reseller of the Goods, it will include limitations of liability that reflect the limitations of liability set out in clause 11.1 in its supply terms with its customers.

## **13. USAGE OF THE GOODS**

13.1 The Customer will provide product data sheets ("PDS") and information supplied by the Supplier to end-users. The Supplier does not accept liability for any Loss incurred or Claim made by others where the Goods are within specifications or are not used in accordance with the PDS. The Customer must notify the Supplier as soon as it becomes aware of any product Claims or injuries incurred as a result of use of the Goods.

13.2 The Customer will comply with all laws prevailing in the countries where it is selling or using the Goods. In particular, it will comply with the *Defence Trade Controls Act 2012* (Cth) and the *Customs Act 1901* (Cth). The Supplier may require the Customer to confirm its compliance with applicable laws in writing at any time.

## **14. INTELLECTUAL PROPERTY RIGHTS**

14.1 As between the Parties, the Supplier retains all intellectual property rights in and to the Goods ("IPR") and includes all trade marks, whether registered or not, branding, get up and materials and information in any form or media related to or accompanying the Goods ("Branding") notwithstanding any contribution by the Customer (if any) and the Customer must not:

- a) claim any interest in or to any IPR;
- b) make representations to any person about having any interest in or to any IPR; nor
- c) challenge the Supplier's right in or to, or the validity of, any IPR or otherwise do anything inconsistent with any IPR.

14.2 The Customer must notify the Supplier immediately if the Customer becomes aware of any actual, threatened or apparent infringement of or challenge to any IPR; any action, Claim or demand about the Goods or IPR by a third party; or any misleading or deceptive conduct relating to the Goods. If any of these situations arise, the Customer must take any action and provide all assistance considered necessary, and as reasonably requested, by the Supplier to protect its IPR.

14.3 The Customer must not make any admission or take any action relating to any alleged infringement of any third party's rights without the written consent of the Supplier.

## **15. FORCE MAJEURE**

15.1 If performance of any of the Supplier's obligations under these Terms is prevented, restricted or delayed by reason of an event of force majeure including any act of God, war, riot, fire, strike, lock out, industrial dispute, raw material shortage, epidemic, pandemic, plant or equipment breakdown, transport interruption or any other cause beyond the Supplier's reasonable control ("Event of Force Majeure"), the Supplier will give notice of the event to the Customer. The Supplier may, in such notice, elect to terminate the Contract or extend the Delivery Date for such period as may be reasonably necessary.

15.2 The Customer may cancel the order without liability if the Event of Force Majeure causes a delay exceeding 20 Business Days from the Delivery Date. The Customer will have no Claim for breach of contract or otherwise against the Supplier for Loss or damage caused by an Event of Force Majeure.

## **16. DISPUTE RESOLUTION**

16.1 Where a genuine dispute exists in relation to an invoiced amount, the Customer must give notice to the Supplier within 5 Business Days of the date of the relevant invoice of the disputed amount, giving reasons why it disputes it, and pay the amount which is not in dispute.

16.2 If there is a dispute between the Parties, the Party raising the dispute must, within 5 Business Days of identifying the issue notify the other Party of the dispute. If the dispute is not resolved within a further 5 Business Days, the dispute must be referred to the Chief Financial Officer of each Party to discuss the matter and attempt to resolve it, acting in good faith.

16.3 If the dispute is not resolved under Clause 16.2 within a further 5 Business Days, either Party may take legal action to enforce their rights. A Party must not commence legal proceedings in respect of a dispute in relation to an invoiced amount until the expiry of this period. Nothing in this clause 16 will prevent a Party from instituting proceedings to seek urgent injunctive, interlocutory or declaratory relief.

## **17. NOTICES**

17.1 Any notice to be given under these Terms will be sufficiently delivered if:

- a) sent by prepaid mail to the recipient's last known address or to such other address as a Party may communicate to the other in writing from time to time;
- b) sent by facsimile, where the sender's facsimile machine confirms successful transmission of the entire notice; or
- c) sent by e-mail, where confirmation is provided by the recipient that the message has been read.

## **18. DUTY TO ACT IN GOOD FAITH AND AVOID CONFLICTS OF INTEREST**

The Customer must act in good faith when dealing with the Supplier and the Customer must take all reasonable steps to investigate and disclose to the Supplier whether any actual or potential conflict of interest (such as employment arrangements or family relationships) exists between itself or any of its employees and the Supplier or any of the Supplier's employees. The Parties will use their best endeavours to resolve any conflict of interest which exists.

## **19. SUB-CONTRACTING**

The Supplier reserves the right to sub-contract the production, manufacture or supply of the whole or any part of the Goods.

## **20. VARIATION, WAIVER, CANCELLATION OR ASSIGNMENT OF TERMS**

20.1 The Supplier may, from time to time, vary these Terms by notice to the Customer and publication on the Supplier's website. The Customer will be deemed to have accepted the varied terms by ordering or accepting any Goods from the Supplier after the date of that notice.

20.2 No purported waiver, variation, cancellation or assignment of these Terms or of any rights or obligations under these Terms by the Customer will be binding on the Supplier unless agreed to in writing by the Supplier.

## **21. GOVERNING LAW**

These Terms and any contracts to which these Terms apply are governed by and construed in accordance with the laws of the State of Victoria. The Parties submit to the non-exclusive jurisdiction of the Courts of that State.

## **22. CONFIDENTIALITY**

22.1 Each party will maintain in strict confidence any proprietary data, documents and other information of the other party (hereinafter referred to as "Confidential Information"), which they may receive in connection with the Contract. No party will make available Confidential Information to any other person without the prior written consent of the party concerned. The term "third party" will not apply to Affiliates of either party as hereinafter defined in clause 22.2, provided such Affiliate will be bound to the same extent of secrecy as the parties hereto.

22.2 "Affiliates" means, for the purposes of this clause 22, any related body corporate as defined in the *Corporations Act 2001* (Cth).

22.3 These obligations to maintain confidence and secrecy will not apply to Confidential Information, which:

- a) is in the public domain after the time of disclosure without fault of the receiving party,
- b) is known to the receiving party prior to receipt thereof from the other party,
- c) is obtained by the receiving party from a third party having a lawful right to disclose the same, or
- d) is developed by the receiving party independent from any access to the Confidential Information supplied by the supplying party.

22.4 Each party will ensure that only employees who need the Confidential Information for the performance of the Contract have access to the Confidential Information and that such employees are, for the term of their employment with the receiving party and thereafter, bound to keep confidential the Confidential Information and not to use the Confidential Information for purposes other than the performance of the Contract.

22.5 These obligations of confidentiality will expire five (5) years from the termination or expiry of the Contract.

## **23. PRIVACY**

23.1 The Customer and/or Directors of the Customer acknowledge that the information provided in this Contract is the basis for valuation by the Supplier of the financial standing and credit worthiness of the Customer and each of them do hereby:

- a) confirm that the information provided in this Contract is true and correct;
- b) authorise the Supplier to make such enquiries and receive such information from anyone as the Supplier may consider necessary;
- c) acknowledge that the Supplier has informed the Customer, in accordance with the Privacy Act, as amended, that certain items of Personal Information, received or collected about the Customer, are permitted to be kept on a credit information file and might be disclosed to credit reporting agencies;
- d) in accordance with the Act, as amended:
  - i. agree to the Supplier obtaining from a business which provides information about the commercial credit worthiness of persons, information concerning the Customer's commercial activities or commercial credit worthiness and using such information for the purpose of assessing the Customer;
  - ii. authorise the Supplier to exercise the Customer's rights of access to the Customer's credit information files and credit reports;
  - iii. agree that the Supplier may give to and seek from any credit providers reports and information that have any bearing on the Customer's credit worthiness, credit standing, credit history or credit capacity for any of the following purposes:

1. to assess any application by the Customer for credit or commercial credit;
  2. to notify other credit providers of a default by the Customer;
  3. to exchange information with other credit providers as to the status of the Customer's account where it is in default with the Supplier or other credit provider;
  4. to assess the Customer's credit worthiness at any time;
  5. to assess whether to continue supply any credit to the Customer;
- e) agree that the Supplier may seek, from a credit reporting agency, a credit report containing personal information about the Customer and/or Directors of the Customer to assess whether to accept the Customer and/or Directors of the Customer as guarantors for credit applied for, or provided to, the Customer and/or Directors of the Customer;
- f) agree that the Supplier may deal with the Personal Information, received or collected about the Customer and/or Directors of the Customer, in line with the Supplier's privacy policy.
- g) agree that these authorisations shall continue to have effect for the duration of the period during the term of this Contract and/or which any credit or commercial credit is provided or sought by the Customer from the Supplier.

23.2 The Customer and/or Directors of the Customer acknowledges and agrees they must before, during or after the term of this Contract:

- a) take all precautionary measures to protect Personal Information, received or collected about the Supplier, against, without limitation, Loss, abuse, disclosure or modification and keep such personal information in confidence and to not use the information for any other purpose; and
- b) ensure Personal Information, received or collected about the Supplier, will continue to be treated as confidential in the event it becomes necessary for the Customer and/or Directors of the Customer to transfer the Supplier's inquiries to an affiliated company of the Customer or any other entity or person.

23.3 The Supplier acknowledges and agrees they will during the term of this Contract:

- a) take precautionary measures to protect Personal Information, received or collected about the Customer and/or Directors of the Customer, against, without limitation, Loss, abuse, disclosure or modification and keep such personal information in confidence and to not use the information for any other purpose;
- b) ensure Personal Information, received or collected about the Customer and/or Directors of the Customer, will continue to be treated as confidential in the event it becomes necessary for the Supplier to transfer the Customer's and/or Directors' of the Customer inquiries to an affiliated company of the Supplier or any other entity or person; and
- c) it will deal with Personal Information, received or collected about the Customer and/or Directors of the Customer, in line with the Supplier's privacy policy.

## **24. MODERN SLAVERY**

24.1 Modern Slavery has the meaning provided by the Modern Slavery Act and further includes exploitative practices including human trafficking, slavery, slavery-like practices, servitude, forced labour, debt bondage, child labour and deceptive recruiting for labour services.

24.2 The Customer warrants and represents to the Supplier that neither the Customer, nor any of its officers, employees, agents or subcontractors have:

- a) committed an offence under any law relating to Modern Slavery;
- b) been notified that they are subject to an investigation or prosecution relating to an alleged offence under any law relating to Modern Slavery; or
- c) become aware of any circumstances within its supply chain that could give rise to an allegation of Modern Slavery; and
- d) it will notify the Supplier immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors, have breached or potentially breached any of the Customer's obligations under this clause.

24.3 Notwithstanding any other provision of this Contract, the Supplier may terminate this Contract immediately upon written notice to the Customer if the Customer breaches this clause.

24.4 In addition to the warranties and representations given by the Customer in this clause the Customer must:

- a) apply ethical sourcing practices;
- b) comply with and encourage compliance with relevant labour standards and laws; and
- c) take reasonable steps to identify modern slavery risks in its operations and supply chains.

## **25 VIENNA CONVENTION**

The provisions of the United Nations Convention on Contracts for the International Sale of Goods adopted in Vienna in 1980 (known as the Vienna Convention) are expressly excluded.

## **26 CUSTOMER'S WARRANTIES**

26.1 The Parties warrant to each other in respect of their own position:

- a) they have the full legal capacity to enter into this Contract and to perform all their terms.
- b) they have had an adequate opportunity to obtain competent legal and other professional advice concerning the terms and effect of this Contract.
- c) they have had the opportunity to negotiate the terms of this Contract.

- d) they consider the terms of this Contract are fair in all of the circumstances.
- e) they enter into this contract voluntarily without duress.
- f) the terms of this Contract are binding upon them according to their terms.
- g) if the Customer is acting in a capacity as a trustee of a trust:
  - i. it has been validly appointed as trustee of the applicable trust and is the sole trustee of it;
  - ii. all necessary actions required by the applicable trust deed to authorise the unconditional execution and delivery of and performance and observance of its obligations under this Contract have been taken;
  - iii. it has given true and complete copies of the applicable trust deed to the other Parties;
  - iv. it is liable to the other Parties in its own right (notwithstanding anything in any trust deed) and as trustee of the applicable trust.

26.2 The Customer further warrants to the Supplier in respect of their own position that they have the capacity to meet any and all monetary and financial obligations under this Contract.