

Standard Terms & Conditions

GENERAL

- 1.1 These terms and conditions of sale, any Credit Application completed by the Applicant, any Guarantee provided and any agreed variation (together Terms and Conditions) form the terms of a contract between the Company and the Applicant.
- 1.2 A reference in these Terms and Conditions to the Company is a reference to the AVW Group. A reference to the Applicant is a reference to you, the customer.
- 1.3 The Terms and Conditions set out the whole of the agreement (Agreement) between the Company and the party named in the Credit Application as Applicant, or other party named in any quotation, purchase order, tender, invoice or contract (Order), in relation to the provision of any goods (Goods) or services to be provided by the Company to the Applicant (Services), including future orders.
- 1.4 Any other contractual terms of the Applicant (whether upon the Applicant's purchase order or elsewhere, including those which are contrary to or inconsistent with the Terms and Conditions) shall not be incorporated into the Agreement, nor shall they constitute a counter-offer.
- 1.5 Any variation to the Terms and Conditions must be accepted by the Company in writing (Agreed Variation).
- 1.6 The Terms and Conditions form the Agreement between the parties to the exclusion of all other terms, except for any additional conditions which are implied and which cannot be excluded by law.
- 1.7 Upon the approval of any Credit Application for the supply of Goods and Services, the Applicant hereby agrees with the Company:
- 1.7.1 To be bound by these Terms and Conditions and to pay for all Goods or Services supplied to the Applicant by the Company within the condition detailed on the invoice or quotation applicable to the supply, or when no specific condition is stated then 30 (thirty) days from the end of the month in which the Goods or Services are provided and invoiced and to be bound by these Terms and Conditions for each subsequent supply until notification of any change of these Terms and Conditions;
- 1.7.2 That the Company may vary these Terms and Conditions by notifying the Applicant of such variation on its website and in that regard, the Applicant:
- (a) Shall be bound by the new or varied Terms and Conditions in relation to any Orders placed following the date of notification; and
- (b) Will execute a new form of Credit application and Guarantee containing those Terms and Conditions if requested to do so by the Company.
- 1.7.3 That the Company may in the event that the conditions in clause 1.7.1 are not complied with or the Applicant otherwise fails to comply with its obligations to the Company in any respect:
- (a) Revoke the credit accommodation and require any further transactions by the Applicant to be on a cash-before-delivery basis; and/or
- (b) Require that all amounts owing to the Company for any reason whatsoever become immediately due and payable, without deduction, on demand.
- GUARANTEE & INDEMNITY**
- 2.1 If the Applicant is a Company, the Company may at its discretion require that the Directors give a guarantee and indemnity (Guarantee) in the form required by the Company.
- 2.2 The Company reserves the right to require a Guarantee to be given in any circumstance.
- QUOTATIONS**
- 3.1 Any quotation, purchase order or tender (Order) which is provided by or to or made by the Company shall not be construed as an offer or obligation to sell and will be subject to these Terms and Conditions.
- 3.2 The Company reserves the right to accept or reject, as its discretion, any Orders which may be received by it and is not bound by any Order until accepted.
- 3.3 The prices given in any Order shall be based on the quantities referred to therein and should there be any variation in the quantity of Goods ordered from that quoted, the Company shall have the right to amend the price quoted accordingly. The Applicant must promptly indicate whether it accepts any revised price.
- 3.4 An Order may specify all costs of delivery and expense of and incidental to, putting the Goods in a deliverable state, which shall be borne by the Applicant and shall be the Company's costs and expenses prevailing at the time of delivery.
- 3.5 Orders which contain a quotation are valid for 30 days. Orders are capable of acceptance solely at the discretion of the Company including where the quotation is more than 30 days old, or while the Company is yet to confirm the availability of relevant materials or Goods in stock and/or its availability to perform the Services.
- DUTY AND PRIME**
- 4.1 The prices quoted by the Company for imported Goods are based on the rate of duty and prime for the appropriate tariff classification of the Goods prevailing at the date of acceptance of the Applicant's order (the initial duty and prime rates).
- 4.2 Should there be any material variation for whatever reason, in the classification of the Goods or the method of assessment or rate of the duty or prime subsequent to the date of acceptance, then the price for the Goods shall be adjusted in accordance with the increase or decrease as the case may be, between the initial duty and prime rates and the applicable rates existing at the date of payment by the Company.
- FREIGHT AND INSURANCE**
- 5.1 The prices quoted by the Company for imported Goods are based on the Company's freight and insurance rates prevailing at the date of acceptance of the Applicant's order (the initial freight and insurance rate).
- 5.2 Should there be any variation, for whatever reason, in the initial freight and insurance rate subsequent to the date of acceptance then the price for the Goods shall be adjusted in accordance with the increase or decrease as the case may be, between the initial freight and insurance rate, and the applicable rates existing at the date of payment by the Company.
- 5.3 Except where indicated on the Order, or as otherwise agreed between the parties, the Applicant is responsible for transport and other charges in accordance with these Terms and Conditions.
- PRICES**
- 6.1 All Goods and Services will be charged at the price determined by the Company at the date identified in any Order and, in the absence of any quotation, at the date of provision of the Goods or Services identified in the invoice.
- 6.2 Special delivery charges incurred in complying with the Applicant's instructions will be charged as an extra to the Applicant and the Applicant will be notified of those charges as soon as they are known to the Company.
- 6.3 The Company may identify in an Order and request the payment of an amount to its nominated bank account before commencement of any works or the provision of any Goods.
- EXCHANGE RATES**
- 7.1 The prices quoted by the Company for imported Goods are based on the exchange rate prevailing at the date of acceptance of the Applicant's Order (the initial exchange rate).
- 7.2 Should there be any variation for any reason in the initial exchange rate subsequent to the date of acceptance then the price of the Goods may be adjusted (at our discretion) in accordance with the increase or decrease as the case may be, between the initial exchange rate and the exchange rate existing at the date of payment by the Company.
- CREDIT TERMS**
- 8.1 Unless otherwise agreed to in writing by the Company, payment shall be made to the Company on strictly net cash terms, within 30 (thirty) days from the end of month in which we receive an invoice for the Goods or Services, unless otherwise stated in writing.
- 8.2 If any credit terms are provided by the Company to the Applicant, the basis for the credit is as set out in any Credit Application Form signed by the Applicant, or otherwise on the basis nominated by the Company in its sole discretion from time to time.
- 8.3 Should the Applicant delay or default in respect of any payment due to the Company then the Company may charge (at its discretion) interest at a rate of 14% per annum, on outstanding balances if payment is not received by the due date.
- 8.4 Any payment by the Applicant will be credited first against the interest accrued to the date of payment.
- 8.5 The Company may at any time and without the need to provide a reason to the Applicant, refuse to extend any further credit to the Applicant and its approval of an Application does not require the Company to extend to the Applicant any particular amount of credit.
- 8.6 The Company may refuse an initial application for credit, but may, in its discretion, proceed if the Company is able to obtain insurance against a default by the Applicant and the Applicant pays to the Company the amount of any premium for that insurance.
- 8.7 The Applicant is liable for all reasonable expenses, including contingent expenses such as debt collection commission, and legal costs (on a full indemnity basis) incurred by the Company in the enforcement of the Applicant's obligations and in the recovery of monies due from the Applicant to the Company.
- GOODS & SERVICES TAX (GST)**
- 9.1 The Company's prices are exclusive of GST and any (GST) will be charged in addition to the price identified in the quotation or Order, unless the price has been provided on a GST inclusive basis.
- SAMPLE AND TRIAL**
- 10.1 Notwithstanding that a sample of the Goods may be exhibited to and inspected by the Applicant, such sample will only be exhibited and inspected solely to enable the Applicant to judge for itself the quality of the bulk and not so as to constitute a sale by sample.
- 10.2 The Applicant warrants to the Company that it has made its own determination and relied on its own judgement as to the suitability of the Goods and their fitness for the purpose required by the Applicant.
- 10.3 Where any products or Goods are provided to the Applicant for assessment or trial, they will be deemed to have been accepted by the Applicant and the Company shall be entitled to invoice the Applicant and receive payment in full for the list price of the Goods in the event that the Applicant fails or refuses to return the Goods to the Company within 7 days of the end of the trial period or such other date as the parties may agree.
- INFORMATION AND DRAWINGS**
- 11.1 All descriptive specifications, illustrations, drawings, data, dimensions and weights furnished by the Company, or otherwise contained in catalogues, price lists or other advertising material of the Company, are approximate only and are intended to be by way of a general description of the Goods. Such description shall not be a term of the Contract between the parties, unless agreed to in writing by the Company in which cases such description shall be subject to recognised tolerances.
- DELIVERY**
- 12.1 Unless otherwise expressly agreed, any times indicated for delivery or completion of Goods or provision of Services are estimates only and the Company will not be liable for failure to deliver, or for delay in delivery due to circumstances which are beyond its control.
- 12.2 In the event of the Company informing the Applicant that any delivery is subject to force majeure, the Applicant shall be entitled to terminate the Agreement or any Order.

- 12.3 Save for the preceding clause, any delay in delivery or dispatch of Goods or provision of Services will not relieve the Applicant of its obligation to accept and pay for Goods or Services.
- 12.4 Unless otherwise agreed in writing by the Company, the Applicant shall take possession and risk of the Goods at the Company's warehouse on which the order is placed and this shall be the place of delivery.
- 12.5 Subject to clause 15, if it is agreed that delivery shall take place other than at the Company's warehouse, risk in the Goods shall pass to the Applicant immediately the Goods begin to be loaded or consigned to a carrier for the purpose of carriage to the agreed place of delivery. All costs and expenses (if any) of and incidental to the carriage and insurance of the Goods shall be paid by the Applicant.
- 12.6 Should for any reason the Company act as a carrier of the Goods to the agreed place of delivery, then in the event of loss or damage to the Goods the Company's liability to the Applicant shall be limited to and completely discharged by either the replacement or the repair of any Goods so lost or damaged.
- ACCEPTANCE**
- 13.1 The Applicant shall inspect the Goods promptly upon their delivery.
- 13.2 The Applicant shall, within 7 (seven) days of delivery, give written notice to the Company of any matter or thing which the Applicant considers to make the Goods not in accordance with the Contract.
- 13.3 If the Applicant should fail to give such notice, then subject to any other rights which the Applicant may have and to the extent permitted by law, the Goods shall be deemed to have been accepted by the Applicant.
- NO LIABILITY FOR USE OF DAMAGED GOODS**
- 14.1 No liability will be accepted by the Company for the consequences of the use of any Goods which the Applicant considers, suspects or, acting reasonably, ought to know have been damaged.
- RISK**
- 15.1 The Goods supplied by the Company shall be at the Applicant's risk immediately on the sooner of dispatch to the Applicant, or into the custody of anyone acting on the Applicant's behalf.
- 15.2 If the Applicant fails to take possession of the Goods within 7 (seven) days from notification that the Goods are ready for delivery, then risk in the Goods shall pass to the Applicant.
- 15.3 In the event that the Applicant fails to take possession of the Goods within 7 (seven) days from notification that the Goods are ready for delivery, the Company may arrange for the Goods to be stored at its warehouse or some other suitable place and all costs of and incidental to such storage shall be borne by the Applicant.
- TITLE**
- 16.1 The following applies until full payment has been made for all Goods supplied and Services provided, and any other sums in any way outstanding from the Applicant to the Company from time to time
- 16.1.1 The property in any Goods does not pass to the Applicant and the Applicant holds the Goods as bailee for the Company.
- 16.1.2 The Applicant must return the Goods to the Company on request.
- 16.1.3 If the Goods are not the Applicant's inventory, the Applicant must not sell or otherwise transfer or dispose of the Goods or part with possession of them without the Company's consent.
- 16.1.4 The Applicant must hold all proceeds from those Goods in trust for the Company and must promptly pay to the Company the proceeds (or the value of the proceeds) or such part thereof needed to fully pay all sums owing by the Applicant to the Company.
- 16.1.5 The Company (acting personally or by its nominated agent) is irrevocably authorised to enter any premises where the Goods are kept, and to use the name of the Applicant and to act on its behalf, if necessary, to recover possession of the Goods.
- 16.1.6 The Applicant shall wherever possible store the Goods separately (and not commingle them with other Goods) until title in them has passed.
- 16.1.7 The Company will have a lien on all property of the Applicant in its possession or control and, after giving reasonable notice to the Applicant, may sell or otherwise dispose of such property and apply the proceeds towards satisfaction of the sums owing to the Company.
- PERSONAL PROPERTY SECURITIES**
- 17.1 The parties agree that any agreement for the supply of Goods pursuant to these Terms and Conditions (and in particular clause 26) is a security agreement to secure payment of the purchase price and all of the Applicant's outstanding debts and obligations to the Company from time to time (including any other Goods supplied by the Company to the Applicant). This Security Interest continues until all of the Applicant's debts and obligations under this agreement are discharged.
- 17.2 The Applicant agrees that it grants and that the Company may, whilst it is entitled to do so, register a Security Interest in such form, and/or in relation to such rights or property as it shall require, pursuant to the Personal Property Securities Act 2009 (Cth) (PPSA 2009).
- 17.3 The Applicant will have a Purchase Money Security Interest (PMSI) in all Goods supplied in accordance with these Terms and the Company's Security Interest shall extend to the Proceeds (including any Accounts) and Accessions.
- 17.4 The Applicant agrees to do all things necessary, including providing all relevant information necessary to register the Security Interest in the Applicant's personal property (Collateral), (and, if applicable, a Purchase Money Security Interest) on the Personal Property Securities Register (PPSR).
- 17.5 The Applicant waives its rights to receive notices relating to any Financing Statement or any Financing Change Statement relating to the Security Interest in the Collateral.
- 17.6 The Applicant will take all steps necessary to better secure any Collateral securing or that is intended to secure the supply of Goods pursuant to these Terms and Conditions immediately and at the Applicant's own cost.
- 17.7 The Applicant must pay the Company's costs of any discharge or amendment of the registration of the Security Interest on the PPSR.
- 17.8 The Applicant agrees that the Company may take whatever action is appropriate to ensure that the Company has first ranking priority in the Collateral and indemnifies the Company against any reasonable costs in doing so.
- 17.9 The Applicant agrees that where the Company has any rights in addition to those conferred by Ch 4 of the PPSA 2009, those rights continue to apply.
- 17.10 The Applicant must not take any steps which will affect the propriety of the Company's security interest and will take all steps which the Company may reasonably require to enable the Company to enforce or perfect its security interest if so required.
- 17.11 Within two (2) business days of the Company's written request the Applicant must provide to the Company copies of all documents granting Security Interests registered over its personal property and any Security Interests perfected by Possession or Control within the meaning of PPSA 2009.
- 17.12 The Applicant authorises the Company (as its agent) to request any information under s275 of PPSA 2009 from any Secured Party relating to any Security Interest.
- 17.13 The Applicant will give the Company not less than seven (7) days prior written notice of any proposed change in its name, address, email address, facsimile number, ACN or ABN, company registration or any other details required for requisition on the PPSR.
- 17.14 If the Applicant commingles the Goods with other property the Company's Security Interest continues in those Processed or Commingled Goods.
- 17.15 The Applicant acknowledges that the Goods are not intended, and must not be used, for personal, household or domestic use.
- 17.16 The Applicant agrees, to the maximum extent permitted by law, to waive its rights to receive any notice that is required by:
- 17.16.1 any provision of the PPSA (including a notice of a verification statement);
- 17.16.2 any other law before a secured party or receiver exercises a right, power or remedy, and cannot be excluded unless the notice is required by the PPSA; and
- 17.16.3 any time period that must otherwise lapse under any law before a secured party or receiver exercises a right, power or remedy.
- 17.17 The Applicant agrees that, to the maximum extent permitted by law, the sections of the PPSA 2009 described in PPSA 2009 section 115 do not apply to this Agreement or the security interests described in this Agreement.
- CANCELLATION AND RETURN OF GOODS FOR CREDIT**
- So far as the law permits:
- 18.1 No cancellations or partial cancellation of an order by the Applicant shall be accepted by the Company unless it has first consented in writing to such cancellation or partial cancellation. The Company may elect to render a cancellation charge if it accepts a cancellation or partial cancellation of any Order and the Company may require that the Applicant will indemnify the Company against all loss, which the Company may suffer as a result of the cancellation. Some Products, including specially ordered, custom made Products and Fischer Products, are non-returnable unless a warranty or guarantee is breached.
- 18.2 Subject to law, customers may be required to pay a restocking fee or for loss we incur as a result (for example, handling/transport costs or any re-stocking fee charged by our supplier).
- 18.3 Cancellation will not be accepted without a cancellation charge being levied on Goods that are not regular stock, where the Company has commenced the process of acquisition or manufacture, or where Goods are ready for shipment.
- 18.4 In respect of Goods delivered to the Applicant at its request, and unless otherwise required by law, the Company at its discretion will only allow the Applicant credit for returned Goods in accordance with the following conditions:
- 18.4.1 In every case proof of purchase (and preferably the original number and date of invoice) must be quoted by the Applicant;
- 18.4.2 Goods must be returned to the Company's warehouse in which the order was placed, within 30 (thirty) days from the date of delivery to the Applicant;
- 18.4.3 Where Goods are supplied by the Company in a special manufacturer's carton then the Goods must be returned in that carton in their original and unmarked condition, complete with all instructions and other documents originally supplied therewith.
- 18.4.4 Charges for outward and inward freight, packing and delivery are for the account of the Applicant and should be prepaid. If such charges are not so paid by the Applicant then they will be deducted from the credit otherwise allowed.
- 18.4.5 Subject to clause 18.2, the Applicant agrees that the Company shall be entitled to charge a restocking fee in an amount equivalent to 20% of the invoiced price of the returned Goods.
- 18.5 Unless otherwise required by law, the following Goods which have been supplied by the Company at the Applicant's request cannot be returned for credit:
- 18.5.1 Any Goods that have been altered, damaged, or used in any manner whatsoever, by the Applicant or any person other than the Company;
- 18.5.2 Any Goods which have been made or purchased on special order (including Goods purchased for special projects or cut to order), of the Applicant or any other person.
- 18.5.3 Any Goods which were invoiced to the Applicant more than 6 months prior to their return.

18.6 The Applicant must not return any Goods to the Company without first obtaining the consent of the Company's Account Manager.

18.7 No returns will be accepted without being accompanied by a clearly marked document stating the relevant invoice or delivery docket number with which the Goods were supplied, in addition to the Company's written consent.

18.8 The Applicant must pay freight charges in relation to the return of Goods. Where Goods are shown to the Company's satisfaction to be defective on delivery, the Company will reimburse the Applicant for reasonable freight charges.

18.9 Unauthorised returns and collect shipments will not be accepted.

18.10 All Goods must, where possible be returned in the original packaging, and the Applicant is responsible for all damage incurred during return shipment.

INTELLECTUAL PROPERTY

19.1 The Company is not liable for any infringement of any intellectual property rights arising out of the use of the Goods by the Applicant.

19.2 Any specifications, drawings or other particulars (including any intellectual property rights therein) to be provided by the Applicant to the Company in accordance with these Terms and Conditions, including pursuant to paragraph 29.3 to enable the Company to make the supply or to complete any works, will remain the sole property of the Applicant.

19.3 The Applicant consents to the Company making such modifications, variations or adaptations to the specifications, drawings or other particulars as may be necessary to enable the Company make the supply of any Goods or to complete the works and any such action by the Company shall not constitute an infringement of Applicant's intellectual property rights or moral rights, (which are hereby expressly waived).

19.4 Unless otherwise agreed in writing:

19.4.1 all intellectual property rights which are created by the Company in provision of the Services, the supply of the Goods, (including any sample, prototype or working copy), or completion of the works, including in relation to any plans, copyright works, electric circuit diagrams, designs, drawings and specifications, whether conceived, generated, manufactured or prepared by the Company pursuant to this Agreement; and

19.4.2 any copyright, design rights, patents, trade secrets, confidential information and other intellectual property rights created, generated or conceived by the Company in relation to the completion of the works or the provision of Goods and Services including in relation to their method of manufacture or other business methods, remain vested in the Company and shall be the Company's property notwithstanding any charge made by the Company to the Applicant.

19.5 The Company reserves all proprietary and industrial property rights vested in it in relation to such Information.

19.6 Where the Company has made such modifications, variations or adaptations to the specifications, drawings or other particulars provided to the Company by the Applicant in relation to the supply of Goods or completion of the works:

19.6.1 the intellectual property rights in such modifications, variations or adaptations vests in the Company (as identified in clause 29.3) unless otherwise agreed in writing; and

19.6.2 where otherwise agreed, the Applicant shall grant to the Company a perpetual, irrevocable, royalty-free licence to use the specifications, drawings or other particulars, to the extent that it is necessary to do so to enable the Company to use or commercialise the modifications variations or adaptations created, generated or conceived by the Company during the supply completion of the works.

19.7 Where the Company uses the Applicant's patterns, jigs, tools or fixtures, the Applicant shall be liable for any repairs, alterations or replacement necessary thereto or for any damage or loss (unless occurring exclusively due to the negligence of the Company) whether due to fair wear and tear, lack of suitability for the production of Goods or any other cause.

19.8 The Applicant will keep confidential any confidential information (including, but not limited to, trade secrets, plans, know-how, processes, formulae and business methods) which it may receive from the Company pursuant to these Terms and Conditions, irrespective of whether the information is marked as confidential, for long as the information remains confidential, unless:

19.8.1 the information becomes public knowledge (other than by an act of the Applicant);

19.8.2 the Applicant is required by law to publish the information; or

19.8.3 the Company confirms in writing that the information is no longer confidential.

TERMINATION

20.1 Any Contract may at the Company's option be terminated in the event of:

20.1.1 the insolvency of the Applicant;

20.1.2 execution being levied against any of the Goods of the Applicant; or

20.1.3 the Applicant being placed in liquidation, whether voluntary or otherwise.

20.2 Upon such termination, the Company shall be entitled to repossess and take back at the cost of the Applicant, all Goods which remain the property of the Company without prejudice to any other right conferred upon the Company by law.

20.3 The Company may terminate all or part of this Agreement (and, for the purposes of clarity, may refuse to fulfil an Order) by notice in writing to the Applicant if the Company has reasonable grounds for believing that the Applicant is unable to pay its debts as and when they fall due.

CHANGE OF OWNERSHIP

21.1 The Applicant agrees to notify the Company of any change in ownership or address.

21.2 Notwithstanding any change in the Applicant's ownership/trading status, or any advice by it to the Company of such change, the Applicant will remain personally liable for any Goods and services requested by it or on its behalf, until it has received written confirmation from the Company that its account has been closed and full payment received and a new account has been opened in the name of the new entity.

WARRANTIES

22.1 These Terms outline how the Company warrants our products for all Goods purchased after 1 January 2011.

22.2 The Australian Consumer Law (ACL) protects consumers by giving them certain rights relating to the purchase of Goods and services.

22.3 If the Applicant is a 'consumer' as the term is defined in the ACL, our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

ADDITIONAL MANUFACTURER'S WARRANTY

23.1 The Company takes all reasonable steps to ensure that it supplies high quality products. In some circumstances the Company may supply products with an additional manufacturer's warranty. Where provided by the manufacturer, such additional manufacturer's warranty will apply in addition to these Terms and Conditions and is available from the manufacturer and subject to any terms which they may impose. Whilst the Company may endeavor to assist you in dealing with the manufacturer in relation to the manufacturer's warranty, the Company is not obliged to take any steps or to incur any cost in doing so. The length of the warranty and other terms which apply to a manufacturer's warranty may change from product to product. If you require our assistance in identifying the provisions of or terms on which any additional manufacturer's warranty may be granted you should contact us in writing so that we can respond in the same manner to your request. The Company will not make any statement in relation to a manufacturer's warranty other than in writing in accordance with this clause.

LIMITATION OF LIABILITY

24.1 Subject to 17.15, pursuant to s 64A of the Australian Consumer Law, where the goods supplied are not of a kind ordinarily acquired for personal, domestic or household use or consumption (and subject to the matters set out in section 64A(3)), the Company's liability for failure to comply with a guarantee implied by Pt 3-2 Div 1, where permitted, is limited to:

24.1.1 in the case of Goods, any one or more of the following:

(a) the replacement of the Goods or the supply of equivalent Goods;

(b) the repair of the Goods;

(c) the payment of the cost of replacing the Goods or of acquiring equivalent Goods;

(d) the payment of the cost of having the Goods repaired; and

24.1.2 in the case of Services:

(a) the supplying of the Services again; or

(b) the payment of the cost of having the Services supplied again.

24.2 The Company's liability under section 275 of the Australian Consumer Law is expressly limited or precluded in relation to any failure to comply with a guarantee that applies to the supply of services under Subdivision B of Division 1 of Part 3-2 of the ACL, in the same way as such liability may be limited or precluded for breach of a term for the supply of services, where the law of a State or Territory is the proper law of these Terms and Conditions.

GENERAL EXCLUSION OF LIABILITY

25.1 Where permitted by the ACL, where otherwise provided at law, or subject to such other statutory rights (as may apply to the sale of the Goods or provision of the Services from time to time) the Company is not liable for any prospective profits, or special, indirect or consequential damages, or any general loss or damage, or for any expense resulting from use by the Applicant or others of defective Goods or the provision of Services pursuant to these Terms and Conditions.

25.2 In that event, the Company's liability is limited to the amount identified in clause 24, plus replacement delivery charges.

25.3 Where the limitations of liability set out in clauses 24 or 25 apply, the Applicant must ensure that terms of a like nature are contained in any contract of sale or onsale of the Goods to a Third Party purchaser.

25.4 The Applicant indemnifies and holds the Company harmless from any claims or demands which are made as a result of the Applicants failure to comply with the requirements of clause 25.3.

PRICE LISTS

26.1 In the event of resale, the prices set out or referred to in the Company's price list or any other document, are recommended only and there is no obligation to comply with the recommendation.

PRIVACY

27.1 The Applicant (and its directors or authorised persons) authorises the Company to collect, maintain and use its personal information in accordance with the matters or objects identified in its Privacy Policy, as amended from time to time.

27.2 The Applicant authorises the Company to give information about the Applicant's credit arrangements to (and obtain similar information from) any credit provider or credit reporting agency. The Applicant understands that this information can include any information about its credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under applicable privacy legislation.

27.3 The Applicant understands that information which the Company collects about it can be used for the purposes of assisting it to avoid defaulting on its credit obligations, notifying other credit providers of a default by it and assessing its credit worthiness from time to time.

PRIVACY POLICY

28.1 The Company will handle any personal information the Applicant provides to it, in accordance with its privacy policy. The Company's privacy policy details can be obtained from the Manager, AWW Group, sales@aww.com.au.

NOTIFICATION OF CHANGE OF OWNERSHIP AND OTHER MATTERS

29.1 The Applicant must notify the Company in writing within seven (7) days of any of the following.

29.1.1 Any alteration of the name or ownership of the Applicant.

29.1.2 The issue of any legal proceedings against the Applicant.

29.1.3 The appointment of any provisional liquidator, liquidator, receiver, receiver manager or administrator to the Applicant.

29.1.4 Any change in the ownership of the business name of the Applicant.

29.2 The Applicant agrees that it shall be liable to the Company for all Goods supplied to the new owner by the Company until notice of any such change is received.

29.3 In the event that there is a change of ownership the Company reserves the right not to supply the new owner. Further, the Company may terminate any Agreement entered into prior to the change in ownership immediately by notice in writing.

NO WAIVER

30.1 No relaxation by the Company of the Applicant's obligations under this Agreement shall be regarded as a waiver of the Company's right to enforce these obligations on a subsequent occasion.

APPLICABLE LAW

31.1 Irrespective of where the Applicant may reside or where any order is placed, this agreement must be construed according to the laws of the State of Queensland and the parties submit to the jurisdiction of the Courts of the State of Queensland.

SEVERABILITY

32.1 To the extent possible, any part of these Terms and Conditions which is found to be invalid or unenforceable must be severed or read down to the extent necessary to stop them being invalid and unenforceable without affecting the validity of any other part these Terms and Conditions.