

TERMS & CONDITIONS OF TRADE

Please read

These Terms and Conditions of Trade (**Agreement**) apply to the following companies:

- Architectural Formliners Australia Pty Ltd ACN 605 348 687;
- Cadia Group Pty Ltd ACN 165 578 156 ("**Cadia**");
- Delnorth Pty. Ltd. ACN 051 954 977;
- Global Synthetics Pty Ltd ACN 120 519 520;
- Jaybro Group Pty Ltd. ACN 159 122 488;
- Link Plus Pty Ltd ACN 619 371 158;
- Plastic Solutions Australia Pty Ltd ACN 158 619 268;
- Roadside Products Pty Ltd ACN 133 084 634;
- Robertsons Building Products Co Pty Ltd ACN 698 042 376 ("**Robertsons**");
- Safe Direction Pty Ltd ACN 156 459 684 ("**Safe Direction**"); and
- Specialised Force Pty Ltd ACN 002 433 436 ("**Specialised Force**"),

(each a "**Jaybro Group Entity**" and, together, the "**Jaybro Group**").

1. Definitions

1.1. In this Agreement the following definitions apply:

"**ACL**" means the Australian Consumer Law contained in Schedule 2 to the Competition and Consumer Act 2010 (Cth) and any applicable state-based legislation giving effect to the Australian Consumer Law in the relevant jurisdiction, as amended.

"**Credit Account Application**" means the application the Customer is required to submit in order to seek credit from the Supplier;

"**Customer**" refers to the customer entity specified on the relevant Purchase Order or Supply Agreement;

"**Force Majeure Event**" means any fire, flood, earthquake, act of God, riot, act of war, terrorism, civil disorder, industrial action, epidemic, pandemic or public health emergency, or any resulting governmental action including work stoppages, or act or omission of a third party that is beyond the reasonable control of the affected party but in each case only to the extent that the affected party is without fault in causing or contributing to or compounding the effects of the relevant event or its effects that could have been prevented by reasonable precautions

"**Goods**" means any goods the Supplier is to supply or have supplied to the Customer.

"**Guarantor**" refers to any Guarantor named in the Credit Account Application

"**Loss**" includes any direct or indirect loss and/or damage, consequential loss, economic loss, loss of opportunity of business interruption, claims, legal costs, demands, damages, consequential damage, liabilities, expenses, charges, suits, actions and/or penalties.

"**party**" refers to the Customer or the Supplier, and "**parties**" refers to the Customer and Supplier.

"**PMSI**" means purchase money security interest as defined in the PPSA.

"**PPSA**" means the Personal Property Securities Act 2009 (Cth) as amended and/or any successors.

"**Related Bodies Corporate**" has the meaning given to that expression in the Corporations Act 2001.

"**Personal Property**" has the same meaning given to it by the PPSA;

"**Purchase Order**" means a written offer from the Customer to purchase Goods and/or Services from the Supplier at the price set out in the relevant quote (if any).

"**Security interest**" has the same meaning given to it by the PPSA;

"**Services**" means any services the Supplier is to supply or have supplied to the Customer.

"**Supplier**" refers to the Jaybro Group Entity specified on the relevant Purchase Order or Supply Agreement;

"**Supply Agreement**" means any agreement for the supply of goods or services entered into between a Jaybro Group Entity and the Customer, and includes a Credit Account Application.

2. Credit

2.1. By completing a Credit Account Application or otherwise seeking credit from the Supplier, the Customer agrees that all orders for Goods or Services will be governed by this Agreement unless otherwise agreed by the parties in writing.

2.2. The Supplier may, at any time and without notice or incurring any liability to the Customer, vary, suspend (temporarily or indefinitely) or withdraw any credit granted to the Customer.

2.3. In addition to clause 2.2, if the Customer's account is inactive for a period of 12 months or more, the Supplier may require the Customer to complete a new Credit Account Application and Guarantee before extending further credit to the Customer.

3. Prices and GST

3.1. All prices quoted are estimates only, subject to change and are exclusive of GST. Any quotation provided is not an offer to supply Goods or perform Services.

3.2. The Customer warrants that it is registered for GST and will notify the Supplier if it ceases to be so. Each amount payable by the Customer under this Agreement in respect of a Taxable Supply by the Supplier is a GST exclusive amount and on issuance of a tax invoice the Customer must, in addition to that amount and at the same time, pay the GST payable in respect of that supply. "Taxable Supply" and "GST" have the meanings set out in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

4. Payment

4.1. The Customer must pay the amount due for the Goods and/or Services as invoiced by the Supplier in full on or before the last calendar day of the month following the month of invoice (commonly known as "30 Days End of Month" terms) unless otherwise agreed in writing by an authorised representative of the Supplier. All amounts must be paid to the Supplier without deduction or set off.

4.2. Without limiting the discretion of the Supplier under clause 7.1, failure to adhere to clause 4.1 may result in the account:

4.2.1. becoming cash on demand (C.O.D.) or the Supplier requiring pre-payment to fill any order, until such time as the account is paid in full. The Supplier reserves the right to determine when the account will be reopened; and

4.2.2. all amounts invoiced to the Customer becoming immediately due and payable to

- the Supplier regardless of the date of issue of such invoice/s; and
- 4.2.3. interest accruing on any amounts outstanding at a rate charge by the Reserve Bank of Australia as published from time to time, plus 5% per annum, calculated daily and capitalised annually.

5. Delivery

- 5.1. Time is not of the essence with respect to delivery. To the extent the parties are able to agree at law, the Supplier shall not be liable for any Loss arising in any way from any delay in delivery or any failure to deliver any Goods (either whole or in part), howsoever any such delay or failure arises. To the extent the Supplier may be held liable under any legislation that cannot be contracted out of at law, the parties agree that the amount claimable in respect of any such Loss is limited to the reasonable replacement value of the Goods at the time of such failure.
- 5.2. The Supplier may deliver the Goods in separate instalments. The parties agree that each separate instalment will be invoiced and paid in accordance with the provisions of this Agreement.
- 5.3. The Customer hereby acknowledges that it may be required to pay for the cost of any delivery, transportation, freight, demurrage, postage, packaging, crating, handling, taxes, duties (including import duties and customs duties), fees, charges, consumables and other incidental items applicable to the Goods and set out in the applicable Supply Agreement or this Agreement.
- 5.4. The Customer must make all necessary arrangements to take delivery of the Goods, including ensuring that the agreed place for delivery has safe and suitable access to take delivery. The Customer must make all arrangements reasonably requested by or on behalf of the Supplier in connection with delivery, at the Customer's cost.
- 5.5. Delivery of the Goods is taken to occur at the time that:
- 5.5.1. the Customer or its nominated carrier takes possession of the Goods at our premises; or
- 5.5.2. the Supplier (or its nominated carrier) deliver the Goods to a site nominated by the Customer, including a third-party address, even if the Customer is not present at the premises and the Customer authorises the Supplier to leave the Goods at the nominated address unattended.
- 5.6. Upon delivery or as soon as practicable after delivery, the Customer must inspect the Goods against the invoice and any delivery docket and verify that the Goods being delivered are what has been ordered by the Customer and comply with the terms of the Supply Agreement or this Agreement.

6. Claims and Returns

- 6.1. Subject to clause 9.1, the Customer must notify the Supplier in writing of any defective, non-conforming or damaged Goods or any discrepancies or errors in the Goods delivered within 7 days of delivery (or such longer period as expressly agreed by us in writing), after which those Goods will be deemed to have been delivered in compliance with the Supply Agreement or this Agreement and accepted by the Customer.
- 6.2. Subject to the terms and conditions of this Agreement, Goods may be exchanged or returned for credit if returned within 7 days of delivery or collection and accompanied by the original invoice.
- 6.3. Any Goods that are exchanged or returned under clause 6.2 must be unused and in their original packaging, undamaged and unopened.

- 6.4. The Supplier will not exchange or provide credit for any Goods until the Supplier has received the returned Goods and have provided the Customer with written confirmation that the Goods have been received and comply with the terms and conditions for exchanging or returning the Goods specified in this Agreement.
- 6.5. If Goods are returned for change of mind under this clause 6, the Supplier may charge a re-stocking fee of up to 20% of the original sale value of the Goods. The Customer acknowledges and agrees that any such re-stocking fee charged to the Customer reflects a genuine pre-estimate of the losses the Supplier will suffer as a result of the return.
- 6.6. The Customer must bear all costs associated with the exchange or return including any delivery, freight and insurance charges incurred.
- 6.7. To the extent permissible under the ACL, the Customer will not be entitled to exchange or return Goods which the Supplier have customised or specially ordered for the Customer.

7. Termination and Default

- 7.1. The Supplier may, at any time and with immediate effect, at its complete discretion, terminate this Agreement, cease or suspend supply of any Goods or Services to the Customer by written notice.
- 7.2. Without limitation to the Supplier's rights, all amounts owing to or invoiced by the Supplier (or any of its Related Entities) to the Customer the Supplier become immediately due and payable on demand if Customer:
- 7.2.1. defaults in making prompt payment of any amount due to the Supplier or any of the Supplier's Related Bodies Corporate under this Agreement or any other agreement or arrangement between the Customer; and the Supplier or any of the Supplier's Related Bodies Corporate; or
- 7.2.2. becomes insolvent or bankrupt, commits an act of bankruptcy, convenes a meeting with its creditors, or enters into an arrangement with its creditors, or makes an assignment for the benefit of its creditors, or appoints a receiver, manager, liquidator (provisional or otherwise), ceases to carry on business; or
- 7.2.3. is financially unable to pay its debts; or
- 7.2.4. is unable meet its obligations under this Agreement; or
- 7.2.5. ceases or suspends trading operations.

8. Exclusion and Warranty

- 8.1. Subject to clause 8.3, the Supplier warrants that the Goods will, under proper use and/or installation, be free from any defects in construction or operation arising solely from faulty design, manufacture or workmanship on the part of the Supplier. Those parts and components which constitute Goods (or which form part of Goods) and which are not manufactured by the Supplier shall be warranted by the Supplier only to the extent that they are warranted by the Supplier's relevant supplier or manufacturer and the Supplier is able to pass on the benefit of such warranty to the Customer. The period of such warranty shall not, however, exceed 12 months from the date of delivery
- 8.2. Where the Supplier has supplied Goods that are manufactured by the Supplier and in respect of which the Supplier has provided the Customer with a separate document that is to be the expressed warranty.
- 8.3. The warranty does not apply and the Supplier is not liable for any defect caused, or contributed to, as a result of the Customer:
- 8.3.1. failing to properly maintain or store the Goods;

- 8.3.2. using the Goods for any purpose other than the purpose for which the Goods were designed;
- 8.3.3. defects arising from ordinary wear and tear, modification, excessive heating or overuse, neglect, misuse, accident, lack of care or incorrect installation; or
- 8.3.4. continuing to use the Goods after any defect becomes apparent.

9. Consumer Rights and Liability

- 9.1. No provision in this Agreement purports to exclude, restrict or modify or have the effect of excluding, restricting or modifying;
 - 9.1.1. the application, in relation to Goods, of any provision of the ACL to the extent the exclusion, restriction or modification of which is prohibited by law; or
 - 9.1.2. any liability of the Supplier for breach of a condition or warranty implied by any such provision to the extent that the exclusion, restriction or modification is prohibited by law.
- 9.2. If Goods under an Agreement constitutes a supply of goods and/or services to a consumer, as defined in the ACL:
 - 9.2.1. nothing in that Agreement shall be construed as excluding, restricting or modifying any express or implied condition, warranty, right or remedy conferred by the ACL on the Applicant except to the extent permitted by law; and
 - 9.2.2. the liability of the Supplier in respect of any breach of a condition or warranty implied by the ACL, shall be limited to the extent permitted by law, at the Supplier's sole discretion to, in the case of Goods, the resupply if the same or equivalent goods, or repair of the Goods, and in the case of Services, the resupply of the services.
- 9.3. To the maximum extent permitted by law, the Supplier is not liable to the Customer (at law, under contract, negligence, indemnity or otherwise), and the Customer hereby releases the Supplier from any claim for Losses, howsoever arising in respect to the supply of Goods or Services pursuant to this Agreement or the Supplier's negligence, act or omission.
- 9.4. To the fullest extent permitted by law but subject to the Supplier's obligations under clause 8, the maximum liability of the Supplier in connection with any claim arising under each Supply Contract is limited to the fees paid for Goods and/or Services under the Supply Contract to which the claim relates.
- 9.5. Each party must take reasonable steps to mitigate any Loss it suffers or incurs.

10. Application of moneys received

- 10.1. If the Supplier receives or recovers money in respect of any debt of the Customer, the Supplier may use the money to pay off whichever debt or part of a debt the Supplier chooses and is not compelled to apply the money as directed by the Customer or any other person.
- 10.2. If any part of the moneys owing to the Supplier by the Customer is secured by a purchase money security interest granted by the Customer, the Supplier may use any money received in the following order:
 - 10.2.1. first, to pay obligations which are not secured by a purchase money security interest; and
 - 10.2.2. second, to pay obligations that are secured by a purchase money security interest.

11. Costs

- 11.1. The Customer is liable for all costs, expenses and disbursements including legal costs (on a solicitor/own

client basis) and mercantile agents' fees incurred by the Supplier (**Enforcement Costs**) in enforcing any right under this Agreement, including but not limited to non-payment or enforcement of any guarantee. Such Enforcement Costs are payable immediately on demand by the Supplier.

12. Transactions

- 12.1. The Customer will be liable for all transactions and expenses involving the Customer's credit account including any fraudulent use of the account by the Customer, any person authorised by the Customer to use the account or the Customer's employees, agents or contractors.

13. Retention of Title

- 13.1. The Supplier retains the legal and equitable title and ownership of Goods, and Customer holds the Goods as a bailee only, until Customer has paid all moneys owing to the Supplier in full.
- 13.2. Until payment is made to the Supplier in full, you may not sell or dispose of, or intermingle, any Goods, except in the ordinary course of business.
- 13.3. The Customer agrees that any proceeds derived from the Goods are the property of the Supplier and are held on trust for the Supplier until full payment for such Goods is received by the Supplier.
- 13.4. Risk passes to the Customer at the time of delivery.
- 13.5. If the Customer defaults in payment, then without prejudice to the Supplier's other rights, the Customer expressly and irrevocably grants an irrevocable licence to the Supplier (and its authorised employees, agents, or representatives) to enter and remain upon any premises occupied or used by the Customer without notice to recover possession, custody or control of Goods. The Customers agree that the rights granted to the Supplier under this clause 13.5 is separate and in addition to any enforcement rights under the PPSA, and may be enforced without reference to, or need to enforce under, the PPSA.

14. Charges and Personal Properties Securities Register

- 14.1. The Customer agrees that in order to secure its obligations to the Supplier under this Agreement, the Customer hereby charges in favour of the Supplier:
 - 14.1.1. all of its legal and equitable interest in all its personal property including rights, property and undertaking of whatever kind and wherever situated, whether presently held or later acquired including, without limitation, its accounts and capital; and
 - 14.1.2. all of its legal and equitable interest in any real property (both legal and beneficial, in freehold and leasehold land) whether presently held or later acquired, whether or not such property is held in the Customer's own capacity or its capacity as trustee; and
 - 14.1.3. in addition to such charge, mortgages all of its present and future interests in any real property to the Supplier, and must provide a fully executed mortgage and ancillary documents in any form reasonably required by the Supplier for the purpose so registration of such mortgage, at such time as demanded by the Supplier.
- 14.2. The Customer must, within seven (7) days of request from the Supplier (or such other time reasonably nominated by the Supplier at the time of the request), do all things or execute or arrange execution of such documents as the Supplier requires to perfect or register any Security Interest under the PPSA, charge or mortgage.

- 14.3. The Customer agrees that to the extent permitted by law:
- 14.3.1. the Customer waives all rights under and expressly excludes the application of sections 95, 96, 117, 118, 125, 142 and 143 of the PPSA; and
- 14.3.2. the Customer waives its rights to notices or statements or account under sections 121(4), 130, 132(3)(d), 132(4), 134, and any right to a verification statement under section 157 of the PPSA.
- 14.4. Except if section 275(7) of the PPSA applies, each of the parties agree not to disclose any information of the kind referred to in section 275(1) of the PPSA that is not publicly available.
- 14.5. The Customer acknowledges that the Supplier, by virtue of the charge and mortgage, has a caveatable interest in any real property of the Customer which is or becomes subject to the charge and/or mortgage and may lodge a caveat over that property.

15. Change of Ownership

- 15.1. The Customer will notify the Supplier in writing of any change of majority ownership or legal structure of the Customer that occurs within 14 days of such change. The Supplier reserves the right to vary, suspend (temporarily or indefinitely) or withdraw any credit if the Supplier believes, at its sole discretion, it impact the Customer's ability to comply with this Agreement.
- 15.2. The Customer must procure a new guarantee from the incoming directors, partners, or owners (including any parent company) on the same terms as set out in this Agreement within 14 days of any change in ownership or structure.
- 15.3. The Customer and Guarantor each indemnifies the Supplier against any loss or damage incurred by it as a result of the Customer's failure to notify or the change of control, and or any failure to procure a new guarantee as required by clause 15.2.

16. Indemnity and Guarantee

- 16.1. The Guarantor hereby guarantees to the Supplier the due and punctual performance of all the Customer's obligations under this Agreement, including without limitation all obligations as to payment, interest and Enforcement Costs.
- 16.2. The Guarantor acknowledges and agrees that, by reason of the Supplier providing the relevant Goods or Services to the Customer, the Guarantor is obtaining a benefit constituting valuable consideration.
- 16.3. The Supplier is not obliged to enforce against the Customer prior to enforcing the Guarantors' obligations under this clause 16.
- 16.4. The Guarantor indemnifies the Supplier in relation to any direct or indirect Losses, suffered by the Supplier or it Related Bodies Corporate arising from or in connection with:
- 16.4.1. the fraud or negligence of the Customer, its officers, contractors, employees, servants or agents;
- 16.4.2. the unenforceability of this Agreement or any part of it for any reason;
- 16.4.3. the Customer's breach of this Agreement; or
- 16.4.4. any claim, demand or proceedings against the Supplier that any payment of the Customer is void, voidable or otherwise invalid for any reason (including pursuant to any provision of the Corporations Act 2001).
- 16.5. The Guarantor hereby charges in favour of the Supplier as security for the Guarantor's obligations to the Supplier under this clause 16:
- 16.5.1. all of its legal and equitable interest in all its personal property including rights, property and undertaking of whatever kind and

- wherever situated, whether presently held or later acquired including, without limitation, its accounts and capital; and
- 16.5.2. all of its legal and equitable interest in any real property (both legal and beneficial, in freehold and leasehold land) whether presently held or later acquired, in respect of which it is acknowledged the Supplier may lodge a caveat to protect such interest, whether or not such property is held in the Guarantor's own capacity or its capacity as trustee, or jointly with any other person;
- 16.5.3. in addition to such charge, the Guarantor mortgages all of its present and future interests in any real property to the Supplier, and must provide a fully executed mortgage and any ancillary documents in any form reasonably required by the Supplier for the purpose so registration of such mortgage, at such time as demanded by the Supplier.

17. Joint and Several Liability

- 17.1. If the Customer or Guarantor consists of more than one person, the obligations of each person are joint and several.
- 17.2. If the Customer or Guarantor is the trustee of a trust, the Customer or Guarantor as the case requires enters into this Agreement in its own capacity and in its capacity as trustee of such trust. If the Customer or Guarantor is, or becomes, a trustee of a trust, it must notify the Supplier within 3 business day of such occurring and provide the ABN of the trustee of the trust.

18. Rights cumulative

- 18.1. All rights under this Agreement are cumulative and the Supplier is not obliged to elect, or deemed to have made any election, by reason of its action of inaction in connection with this Agreement.

19. Application and inconsistency

- 19.1. The terms of this Agreement apply to any Supply Agreement, save as expressly excluded by such Supply Agreement. To the extent any Supply Agreement contains terms inconsistent with the terms of this Agreement, the terms of the Supply Agreement prevail to the extent of any inconsistency.

20. Severance

- 20.1. Each clause, sub-clause and part of this Agreement is separate and independent. If any clause or sub-clause or part is found to be invalid or ineffective, it shall be read down to the extent necessary to give it validity and enforceability or, if it is not possible to so read down such clause, it will be severed such that the other clauses or sub-clauses or parts will not be adversely affected.

21. Waiver

- 21.1. Any waiver by the Supplier must be in writing. In the event that the Supplier does not exercise, or delays in exercising, any of the Supplier's rights under or connection with this Agreement, the Supplier's election will not constitute a waiver of any rights relating to any other breach of this Agreement.

22. Amendment

- 22.1. This Agreement may only be amended with the Supplier's prior written agreement. The Supplier may amend this Agreement in its absolute discretion on 30 days' notice to the Customer and the changes will apply to any orders placed by the Customer after such notice is given. Notice may be given by the Supplier (or any of its related entities in respect of terms applying to the Supplier) in any manner the Supplier

reasonably considers will likely come to the attention of the Customer, including by update of the publicly available copies of such amended terms and conditions of trade on its website from time to time, or by electronic communication to the last email address advised by the Customer. Any other contractual terms of the Customer (whether upon the Customer's order or elsewhere) shall not apply unless expressly agreed in writing by the Supplier, nor shall they constitute a counter-offer.

23. Assignment

- 23.1. The Customer cannot assign this Agreement without the Supplier's prior written consent. The Supplier may assign any of its rights in relation to this Agreement on written notice to the Customer.

24. Force Majeure

- 24.1. Neither party shall be liable for any delay, default or failure to perform an obligation due to a Force Majeure Event. In the event of a Force Majeure Event, the affected party must:
- 24.1.1. as soon as reasonably practicable, notify the other party in writing of the particulars of the event;
- 24.1.2. do all reasonable things to avoid, minimise the duration of, and mitigate the consequences of the Force Majeure Event; and
- 24.1.3. when the Force Majeure Event ends, if reasonably able, recommence performance of the affected obligations and promptly notify the other party in writing.

25. Governing Law

- 25.1. This Agreement is governed by the laws of the New South Wales, Australia.
- 25.2. Each party irrevocably submits to the jurisdiction of the courts in New South Wales, Australia in connection with matters concerning this Agreement, and waives any right to object to this forum on the basis on convenience.

26. Prior Conduct

- 26.1. The Customer represents that it has not, and does not, rely on the Supplier's prior conduct or statements when entering into this Agreement and agrees that the Supplier's relies on this representation for the purpose of agreeing to provide credit, Goods or Services.

27. Notices

- 27.1. Any notice required to be given under, or in connection with, this Agreement:
- 27.1.1. must be written in English; and
- 27.1.2. can be sent by email to the contact notified by the parties, in which instance notice is deemed to have been given at the time the email is delivered to the recipient's server, or 9.00am the following Business Day if such occurs after 5.00pm or on a non-Business Day; or
- 27.1.3. if no email address is given or an email is returned undeliverable, by ordinary pre-paid mail to the party's registered office address, in which instance notice is deemed to have been given 7 days from the date of posting.

28. Special Conditions: Safe Direction

- 28.1. The special terms and conditions in this clause 28 (in addition to the other terms of this Agreement) apply to the Customer if the Customer's Supply Agreement is with Safe Direction. Clauses 6, 8 and 9 of this Agreement apply with any necessary modification to read as applying to the Installation Services in lieu of, or as well as, Goods as the case requires.

- 28.2. Clause 28 applies if the Supply Agreement specifies that the Goods are to be installed or Safe Direction otherwise agrees in writing to perform Safe Direction Installation Services (as defined in the Supply Agreement).
- 28.3. Safe Direction will perform the Safe Direction Installation Services in accordance with the Supply Contract.
- 28.4. Safe Direction agrees to, and must use all reasonable endeavours to ensure that each Subcontractor (as defined in the Supply Agreement) will:
- 28.4.1. perform the Safe Direction Installation Services exercising the standard of care that would be expected of a contractor experienced and skilled in works of the nature of the Safe Direction Installation Services and in accordance with all applicable laws;
- 28.4.2. use reasonable endeavours to complete the Safe Direction Installation Services by the end of the Installation Period (as defined in the Supply Agreement);
- 28.4.3. notify the Customer as soon as reasonably practicable of any anticipated material delays in the Safe Direction Installation Services; and
- 28.4.4. supply all tools, equipment and materials to complete the Safe Direction Installation Services, except as otherwise provided in the Supply Contract.
- 28.5. Notwithstanding the Safe Direction obligation to use reasonable endeavours under clause 28.4, the Customer acknowledges and agrees that any Subcontractor is a third party not within the control of Safe Direction, and accordingly Safe Direction is not responsible for the acts or omissions, of any kind, by the Subcontractor, its agents, employees, or representatives. To the maximum extent allowed at law, the Customer waives any right or claim against Safe Direction in connection with any act or omission of the Subcontractor, its agents, employees or representatives.
- 28.6. The Customer must:
- 28.6.1. notify Safe Direction in writing of any restrictions on access to the Installation Location (as defined in the Supply Agreement) or hazards at or adjacent to the Installation Location that might reasonably be expected to affect the performance of the Safe Direction Installation Services;
- 28.6.2. provide in a timely manner all information reasonably requested by Safe Direction or the Subcontractor (as defined in the Supply Agreement) in relation to the Installation Location;
- 28.6.3. provide in a timely manner any deliverables, plant, equipment or materials identified in the Supply Contract as being required to be supplied by the Customer;
- 28.6.4. ensure Safe Direction and its Subcontractor have access to the Installation Location at all reasonable times for the performance of the Safe Direction Installation Services; and
- 28.6.5. notify Safe Direction in writing within 7 days after completion of the Safe Direction Installation Services or discovery of the alleged defect, whichever occurs first, of any alleged defect or deficiency in the performance of the Safe Direction Installation Services.

29. Special Conditions: Cadia

- 29.1. The special terms and conditions in this clause 28 (in addition to the other terms of this Agreement) apply to

- the Customer where a Customer places an order for any Goods that require manufacturing and/or modification (**Precast Items**). Clauses 6, 8 and 9 of this Agreement apply with any necessary modification to read as applying to the Precast Items in lieu of, or as well as, Goods as the case requires.
- 29.2. Despite clause 4 of this Agreement, where a Customer requires a Precast Item, the Customer must pay to Cadia at the time of the order, a 50% deposit of the total order amount. The balance of the total order amount is due and payable pursuant to the terms and condition under clause 4.
- 29.3. Where a Customer requires Goods for a project and Cadia is impacted by a delay in Delivery the Goods as per the notification by the Customer, and the Goods are not pursuant to a Supply Agreement, the Customer shall either upon notification by Cadia that the Goods are ready for Delivery:
- 29.3.1. pay 50% of the total order amount with the balance on Delivery, despite clause 4; or
- 29.3.2. pay a delay charge of \$25.00 plus GST per day per item of Goods until such time as Cadia has been notified by the Customer to Deliver the Goods to the Customer.
- 29.4. Where a Customer has placed a holding order to Cadia for any concrete products for a project to ensure availability of the Goods, and subsequently cancels the holding order after 14 days from the placement of the holding order, a cancellation fee of 20% of the total invoice value will be payable by the Customer.
- 30. Special Conditions: Hired Goods**
- 30.1. The special terms and conditions in this clause 30 apply only to Goods that the Supplier hires out from time-to-time including props, earth bolts, screw piles, braces, dispensing frames (spreader bars) and any associated components ("**Hired Goods**"). If the Customer places a Purchase Order for any Hired Goods from the Supplier, the Customer acknowledges and accepts these special terms and conditions in addition to the other terms of this Agreement.
- 30.2. The Supplier agrees to hire out for a fee the Hired Goods to the Customer on an "as is" basis and the Customer is entitled to use of the Hired Goods during the hire period and any extension to the hire period that is agreed to in writing. A minimum hire period of one month applies to all Hired Goods ("**Minimum Hire Period**"), unless otherwise agreed by the parties in writing.
- 30.3. Before the Supplier supplies the Hired Goods, the Supplier may at our absolute discretion require the Customer to pay a bond that is refundable after the return of the Hired Goods, subject to this clause 30 ("**Bond**").
- 30.4. Unless otherwise agreed in writing, clause 5 does not apply to Hired Goods and the Customer is responsible for arranging the collection, return and transportation of the Hired Goods to and from the premises specified by the Supplier for collection and return in the Supply Contract.
- 30.5. If the Supplier agrees in the Supply Contract to deliver and/or collect the Hired Goods to and/or from a site specified by the Customer, the Customer must pay the delivery and/or collection fees specified in the Supply Contract. The Customer will be responsible for unloading and reloading the Hired Goods on their delivery and/or collection respectively.
- 30.6. The hire period commences on the earliest of the date:
- 30.6.1. specified in the Supply Contract;
- 30.6.2. the Customer or its representative take possession of the Hired Goods; or
- 30.6.3. the Supplier delivers the Hired Goods to the Customer regardless of whether the Customer or its representative is present to accept delivery.
- 30.7. Subject to any Minimum Hire Period, the hire period ends on the date that:
- 30.7.1. the Hired Goods are returned and accepted by the Supplier; or
- 30.7.2. the Supplier collects the Hired Goods from the Customer.
- 30.8. Within 2 business days of the Hired Goods being collected by the Customer or delivered, the Customer must inspect the Hired Goods and advise the Supplier in writing if any Hired Goods are damaged, missing or not in good working order. If the Customer does not notify the Supplier within this time, the Hired Goods will be taken to be undamaged, in good condition and not missing any component.
- 30.9. During the hire period, the Customer must ensure that:
- 30.9.1. the Hired Goods are used in accordance with their safe, proper and lawful operation and are not misused or mistreated;
- 30.9.2. all personnel using, handling, erecting or dismantling the Hired Goods (as the case may be) are suitably trained, instructed and/or supervised in the safe and proper use, handling, erection and dismantling of the Hired Goods in accordance with all laws and regulations;
- 30.9.3. if transporting the Hired Goods, the Hired Goods are suitably protected and secured for transportation and transported in compliance with all laws and regulations;
- 30.9.4. in the case of any weight-bearing Hired Goods, that they do not bear weight that exceeds their rating;
- 30.9.5. the Hired Goods are used with the Supplier's Goods only and not used with any third party Goods without our prior written consent; and
- 30.9.6. if the Hired Goods are damaged or components are lost, no attempts are made to repair or replace missing components and the Customer must immediately inform the Supplier of such damage or loss.
- 30.10. During the hire period, the Customer is responsible for securing and storing the Hired Goods. If during the hire period any Hired Goods are damaged (except for fair wear and tear as reasonably determined by the Supplier), lost or stolen, the Customer is liable for:
- 30.10.1. repair or damage to Hired Goods; or
- 30.10.2. the cost of replacement of those Hired Goods specified in the Quote where the Hired Goods are lost, stolen or not capable of being repaired.
- 30.11. At the end of the hire period, the Customer must ensure that the Hired Goods are in the same condition as they were provided to the Customer (excluding fair wear and tear as reasonably determined the Supplier). Props and braces must be stacked and sorted in the same manner provided to the Customer.
- 30.12. Following the end of the hire period, the Supplier will inspect the Hired Goods to determine if the Hired Goods are damaged (except for fair wear and tear as reasonably determined by the Supplier) or missing.
- 30.13. If, as a result of the Supplier's inspection of Hired Goods under clause 30.12, the Supplier reasonably determines that the Hired Goods are returned damaged (including if the Hired Goods require intensive cleaning to be restored to their original condition) or missing any component, or in the event that the Hired Goods are lost or stolen, the Supplier may retain from any Bond received from the Customer an amount equal to the amount payable under clause 30.10 and refund the Customer the balance (if any). If the repair or replacement cost exceeds the amount of the Bond received, the

- Supplier may recover such excess from the Customer as a debt.
- 30.14. If the Hired Goods are returned by you or the Customer request the Hired Goods be collected by the Supplier before the end of the Minimum Hire Period or the date agreed for their return, the Customer will not be entitled to any credit or refund of any fee paid for the hire. If the Hired Goods are not returned within 7 days of the end of the Minimum Hire Period or the date agreed for their return, the Supplier may, acting reasonably, deem the Hired Goods as being lost or stolen.
- 30.15. In no circumstances will the Hired Goods be treated as fixtures. The Customer's rights in the Hired Goods are that of a bailee only. At all times, the Supplier retains title in the Hired Goods.
- 30.16. The Customer must not sublet, offer for sale, sell, charge, mortgage, pledge or create any security interest in the Hired Goods or otherwise deal with the Hired Goods in a manner that is in breach of or inconsistent with this Agreement.
- 30.17. Except as required by applicable law, Hired Goods cannot be returned in exchange for refund or credit once they have been delivered to the Customer.
- 31. Special Conditions: Specialised Force**
- 31.1. The special terms and conditions in this clause 31 (in addition to the other terms of this Agreement) apply to the Customer if the Customer's Supply Contract is with Specialised Force.
- 31.2. Any stock that is not available may be back ordered and, if requested, Specialised Force will notify the Customer when (or if) the Goods are available for purchase pursuant to a Supply Contract.
- 31.3. Unless otherwise agreed, Specialised Force will deliver Goods during business hours for the branch from which Goods are to be delivered. Specialised Force branches are available from 7:30am – 5:00pm on business days in their relevant branch locations.
- 31.4. Where the Customer has left any item with Specialised Force for repair, modification, exchange or for Specialised Force to perform any other service in relation to the item and Specialised Force has not received or been tendered the whole of any monies owing to it by the Customer in relation to that item after serving a written demand on the Customer for payment of the amount due in accordance with the terms of this Agreement, Specialised Force will have:
- 31.4.1. a lien on the item; and
- 31.4.2. the right to retain, dispose or sell the item,
- 31.4.3. until all monies owing to Specialised Force in relation to that item are paid.
- 31.5. Our lien set out at clause 31.4 will continue despite the commencement of proceedings, or judgment for any monies owing to us having been obtained against the Customer.
- 31.6. Where:
- 31.6.1. the Customer has left any item with Specialised Force for repair, modification or for Specialised Force to perform any other service in relation to the item;
- 31.6.2. Specialised Force has issued with the Customer with quote for the repair, modification or for Specialised Force to perform any other service in relation to the item; and
- 31.6.3. the Customer has not accepted the quote and the quote is no longer valid;
- 31.6.4. Specialised Force may issue a written notice to the Customer requesting that the items are collected by the Customer as soon as reasonably practicable (and, in any event, within 14 days of the date of the notice).
- 31.7. If the relevant items are not collected by the Customer within 14 days of the date of the notice issued by Specialised Force under clause 31.6 or such longer period as agreed by the parties in writing, the items will be deemed to be abandoned by the Customer and:
- 31.7.1. Specialised Force may retain, dispose or sell the items in its absolute discretion; and
- 31.7.2. Specialised Force may, in its absolute discretion, charge the Customer for any costs Specialised Force reasonably incurs in connection with storage, disposal and/or sale of the items, which Specialised Force may recover from the Customer as a debt due.
- 31.8. Specialised Force warrants and the Customer agrees that:
- 31.8.1. in relation to Services, for a 3 month period following the date of completion of Services provided under this Agreement, that those Services were carried out with due skill and care, in a proper and workmanlike manner and in accordance with applicable law;
- 31.8.2. in relation to Goods supplied by Specialised Force to which a manufacturer's warranty applies, the benefits and obligations of the manufacturer's warranty apply in all respects and is the sole and exclusive warranty for those Goods; or
- 31.8.3. in relation to Goods supplied by Specialised Force to which a manufacturer's warranty does not apply, for a 12 month period following the date of delivery (unless otherwise agreed), those Goods will be free from defects in materials and workmanship, and to the extent designed by Specialised Force, will be fit for the purpose specified in the relevant Supply Contract.
- 31.9. The Customer must notify the Supplier of any event or circumstance that may give rise to a warranty claim by the earlier of:
- 31.9.1. the time expressly required by the manufacturer's warranty for the notification of claims, if any such time applies; or
- 31.9.2. if no such time applies, within 90 days of the event or circumstance occurring that gave rise to the warranty claim, and in any event, within the relevant warranty period stipulated in clause 31.6.
- 31.10. If the Customer fails to notify the Supplier in accordance with clause 31.6, the Supplier may, in its sole discretion, rectify the defect but otherwise has no liability to do so.
- 31.11. The Customer must send a warranty claim to Specialised Force at: Specialised Force Pty Ltd, 131 Woids Avenue, Carlton NSW 2218 or Email: sales@specialisedforce.com.au.
- 31.12. If the Customer submits a warranty claim that does not satisfy the requirements for a warranty claim under this Agreement, the Customer can request a quote for that work.
- 31.13. Specialised Force's liability for any defect or damage in the Goods or Services is:
- 31.13.1. limited to the value of the Goods or Services and any express warranty provided to the Customer by Specialised Force, at Specialised Force's sole discretion;
- 31.13.2. limited to the manufacturer's warranty; and
- 31.13.3. otherwise negated to the fullest extent permissible by law.
- 31.14. Subject to the inclusions and exclusions as provided by the manufacturer's warranty, any warranty under this Agreement excludes liability for costs in connection with:

- 31.14.1. labour (including overtime labour) other than is reasonable or customary to rectify the defect;
- 31.14.2. the removal or re-installation of parts and components, unless Specialised Force carried out the original installation, and does the removal and installation of the replacements; and
- 31.14.3. standby, freight, transportation, travel, travel time, packaging and handling, demobilisation and re-mobilisation, commissioning and testing.
- 31.15. Where the Goods are to be exported to the Customer, then the Supplier may include additional provisions relating to the shipment of the Goods to the Customer.
- 31.16. The parties expressly agree that any agreement between them will not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods adopted in Vienna in 1980 (the "Vienna Convention") and that the provisions of the Vienna Convention are expressly excluded.

32. Special Conditions: Variable Message Sign / Electronic Road Sign Trailers

- 32.1. The special terms and conditions in this clause 32 apply only to the sale of variable message sign (VMS) trailers and electronic road sign (ERS) trailers ("Trailers"). By placing a Purchase Order for Trailers, the Customer acknowledges and accepts these special terms and conditions in addition to the other terms of this Agreement.
- 32.2. Trailers require registration with the relevant state authority prior to the Customer's collection.
- 32.3. Unless otherwise agreed in writing, the Customer consents to the Supplier registering the Trailers in the Customer's name and appoints the Supplier to act as the Customer's attorney for that purpose.
- 32.4. Notwithstanding the registration of the Trailers in the Customer's name, title in the Trailers will not pass to the Customer and clauses 13, 14 and 16 of this Agreement will continue to operate.
- 32.5. Clause 5 does not apply to Trailers. The Customer is responsible for the collection of the Trailers from the Supplier's designated collection point. After the successful registration of the Trailers, the Supplier will notify the Customer of the time and place that the Trailers are available to be collected.
- 32.6. The Customer must arrange to collect the Trailers within 7 days from the date that the Supplier notifies that the Trailers are available for collection. If the Customer does not collect the Trailers within this time, the Supplier may, at its absolute discretion, charge the Customer a daily storage fee of \$100 per day on a per-trailer basis as specified in the Supply Contract which the Supplier may recover from the Customer as a debt.
- 32.7. The Customer must ensure that at all times the Trailers are kept in a roadworthy condition and are towed and operated in compliance with all applicable laws and regulations.
- 32.8. The Customer will be responsible for and must pay all maintenance, insurance and other costs associated with their use of the Trailers, including any fines or infringement notices.
- 32.9. Any request for cancellation of a Purchase Order for Trailers will be at our absolute discretion.
- 32.10. Except as required by applicable law, Trailers cannot be returned for a credit or refund once they have been collected.

33. Special Conditions: Robertsons

- 33.1. The special terms and conditions in this clause 33 (in addition to the other terms of this Agreement) apply to

the Customer if the Customer's Supply Contract is with Robertsons.

- 33.2. Many of the Goods supplied by Robertsons are manufactured from natural materials or materials that may vary in appearance. Accordingly, the colour, shade, tone, markings, texture and finish of the Goods may differ from samples, showroom displays, images on the Robertsons' website, brochures or previous purchases. Such variations are a natural characteristic of the Goods and do not constitute a defect.
- 33.3. Robertsons indicative lead times are 6–8 weeks for standard Goods and 12–14 weeks for custom Goods. Lead times are estimates only, may vary and commence once all product selections have been confirmed and any required deposit has been received.
- 33.4. Robertsons recommends that the Customer order an additional 5–7% of the Goods to allow for cutting, wastage and breakages.
- 33.5. Despite clause 4 of this Agreement, Robertsons may, at its discretion, require the Customer to pay a deposit of up to 100% of the purchase price at the time an order is placed. Where a deposit of less than 100% is required, the balance of the purchase price must be paid prior to or at the time of collection or delivery, depending on the type of Goods ordered.
- 33.6. Any deposit paid for custom, made-to-order or non-stock Goods is non-refundable once the order has been placed with the manufacturer or supplier, except to the extent required by applicable law.
- 33.7. Clause 5 does not apply to Robertsons customers where the Customer collects the Goods from Robertson. The Customer must either:
 - 33.7.1. collect the Goods from Robertsons; or
 - 33.7.2. accept delivery of the Goods, within fourteen (14) calendar days after being notified that the Goods are ready for collection or delivery by Robertsons.
- 33.8. If the Customer fails to collect the Goods or accept delivery within the period specified in clause 33.7, Robertsons may, at its discretion:
 - 33.8.1. charge storage fees of \$15.00 per pallet per calendar day, plus GST, until the Goods are collected or delivery is accepted;
 - 33.8.2. recover any additional costs reasonably incurred as a result of the Customer's failure to collect the Goods or accept delivery, including re-delivery or additional freight charges; and
- 33.9. Despite anything to the contrary of this Agreement, any Goods stored by Robertsons on behalf of the Customer are at the Customer's sole Risk. Risk in the Goods will pass to the Customer upon expiry of the fourteen (14) day period, notwithstanding that the Goods remain in the possession of Robertsons.