

TERMS AND CONDITIONS OF TRADE

These Terms and Conditions of Trade ("Terms") apply (unless otherwise previously agreed in writing) to the supply of Goods by SQ to a Client from time to time. Any supply of Goods by SQ to the Client made after the date of acceptance of these Terms is a supply pursuant to the supply agreement constituted by these Terms and the relevant order accepted by the Client ('Agreement') and any such supply does not give rise to a new or separate agreement.

1. Definitions

- 1.1 "Additional Charges" includes all delivery, handling and storage charges, goods and services tax, stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the Price, payable by the Client to SQ arising out of the sale of the Goods.
- 1.2 "SQ" means SafeQuip, its successors and assigns or any person acting on behalf of and with the authority of SafeQuip
- 1.3 "Client" means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Client is a reference to each Client jointly and severally.
- 1.4 "Consequential Loss" means increased costs or expenses; loss of revenue; loss of profit or anticipated profit; loss of business; loss of business reputation; loss of opportunities; loss of anticipated savings; loss of goodwill; loss or expense resulting from a claim by a third party; special or indirect loss or damage of any nature whatsoever caused by SQ's failure to complete or delay in completing the order to deliver the Goods; and any other loss suffered by a party as a result of a breach of this Agreement that cannot reasonably be considered to arise directly and naturally from that breach.
- 1.5 "Force Majeure Event" means any event outside the reasonable control of SQ including acts of God, war, riots, strikes, lock outs, trade disputes, break downs, mechanical failures, interruptions of transport, government action, pandemic, epidemic or any other cause whatsoever, whether or not of a like nature to those specified herein.
- 1.6 "Goods" means all Goods or Services supplied by SQ to the Client at the Client's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).
- 1.7 "Intellectual Property Right" means any patent, registered design, patent, trademark, copy-right, trade secret or any other proprietary right of a third party or parties, registered or unregistered, in any country.
- 1.8 "Payment Information" means any details required for the purchase of the Goods which includes but is not limited to credit / debit card numbers and bank account numbers.
- 1.9 "PPSA" means the *Personal Property Securities Act 2009* (Cth).
- 1.10 "Price" means the Price payable for the Goods as agreed between SQ and the Client in accordance with clause 6 below.

2. Order for Goods and Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these Terms if the Client places an order for or accepts delivery of the Goods.
- 2.2 No order is binding on SQ until accepted by it.
- 2.3 These Terms may only be amended with SQ's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and SQ.
- 2.4 These Terms are meant to be read in conjunction with the Terms posted on SQ's website. If there are any inconsistencies between the two documents then the Terms contained in this document shall prevail.
- 2.5 The Client acknowledges and agrees that the Price is quoted on the condition that all signs are ordered, manufactured and delivered/installed at the same time.
- 2.6 The Client acknowledges and agrees that the Price does not include disconnection and connection to the mains power. SQ recommends that an authorised electrician is used to undertake this work.
- 2.7 The Client acknowledges and agrees that all art work will be supplied in a vectorized format unless otherwise agreed in writing.
- 2.8 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.

3. Electronic Transactions Act 1999 (Cth)

Electronic signatures shall be deemed to be accepted by either party provided that the parties have complied with Section 10 of the *Electronic Transactions Act 1999* or any other applicable provisions of that Act or any Regulations referred to in that Act.

4. Change in Control

The Client shall give SQ not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by SQ as a result of the Client's failure to comply with this clause.

5. Trustee Capacity

- 5.1 If the Client is the trustee of a trust (whether disclosed to SQ or not), the Client warrants to SQ that:
- 5.2 The Client enters into this Agreement in both its capacity as trustee and in its personal capacity;
- 5.3 The Client has the right to be indemnified out of the trust assets;
- 5.4 The Client has the power under the trust deed to enter into this Agreement; and
- 5.5 The Client will not retire as trustee of the trust or appoint any new or additional trustee without first advising the SQ.

6. Price and Payment

- 6.1 At SQ's sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by SQ to the Client; or
- (b) the Price as at the date of delivery of the Goods according to SQ's current price list; or
- (c) SQ's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

- 6.2 SQ reserves the right to change the Price if a variation to SQ's quotation is requested. Any variation from the plan of scheduled Services or specifications (including, but not limited to, any variations as a result of fluctuations in currency exchange rates, additional Services required due to hidden or unidentifiable difficulties such as hard rock barriers below the surface or iron reinforcing rods in concrete, or unstable footings, or due to difficult site access or conditions which requires a crane, or as a result of increases to SQ in the cost of materials and labour) will be charged for on the basis of SQ's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.

- 6.3 At SQ's sole discretion a non-refundable deposit may be required.

- 6.4 At SQ's sole discretion urgent orders may incur an additional fee.
- 6.5 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by SQ, which may be:

- (a) on delivery of the Goods;
- (b) before delivery of the Goods;
- (c) by way of instalments/progress payments in accordance with SQ's payment schedule;
- (d) thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices;
- (e) the date specified on any invoice or other form as being the date for payment; or
- (f) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by SQ.

- 6.6 Payment may be made by cash, cheque, credit card (plus a surcharge of up to three and a half percent (3.5%) of the Price), or by any other method as agreed to between the Client and SQ.

- 6.7 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to SQ an amount equal to any GST SQ must pay for any supply by SQ under this or any other agreement for the sale of the Goods.

- 6.8 All amounts payable (including GST) by the Client under these Terms must be paid without deduction, set off or counter claim of any kind and at the same time and on the same basis as the Client pays the Price. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

- 6.9 Any Additional Charges are payable by the Client in addition to the Price of the Goods.

7. Building and Construction Industry Security of Payment Legislation

- 7.1 The Client acknowledges and agrees that:
- (a) SQ may from time to time serve payment claims in accordance with the Building and Construction Industry Security of *Payment Act 1999* (NSW) (as amended from time to time) on the Client for Goods supplied in New South Wales; and
- (b) SQ may from time to time service payment claims on the Client for Goods supplied outside of New South Wales in accordance with the relevant Building and Construction Industry Security of Payment Act of the State or Territory (as amended from time to time) in which they were supplied.

8. Payment Information

- 8.1 The Client is solely responsible for the accuracy of any Payment Information provided and undertakes that all Payment Information provided to SQ for the purpose of purchasing the Goods will be correct, that the credit or debit card, or account or other payment method which the Client uses is their own and that there are sufficient funds or credit facilities to cover the cost of the Good(s). SQ reserves the right to obtain validation of the Client's Payment Information before providing the Good(s).
- 8.2 SQ are not liable for any loss or damage of any kind however so caused which is suffered or incurred by the Client in connection with the use of a credit card or other debit device.

9. Delivery of Goods

- 9.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:
- (a) the Client or the Client's nominated carrier takes possession of the Goods at SQ's address; or
- (b) SQ (or SQ's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.
- 9.2 At SQ's sole discretion the cost of delivery is either included in the Price or is in addition to the Price.
- 9.3 The Client must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods as arranged then SQ shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 9.4 SQ may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these Terms.
- 9.5 The Client acknowledges and agrees that finished orders and order times are subject to art work approvals and lead times.
- 9.6 Any time or date given by SQ to the Client is an estimate only and SQ will not be liable for any loss or damage incurred by the Client as a result of failure or delay in the delivery of the Goods. The Client is not relieved of any obligation to accept or pay for Goods by reason of any delay in delivery of the Goods.

10. Risk

- 10.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.
- 10.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, SQ is entitled to receive all insurance proceeds payable for the Goods. The production of these Terms by SQ is sufficient evidence of SQ's rights to receive the insurance proceeds without the need for any person dealing with SQ to make further enquiries.
- 10.3 If the Client requests SQ to leave Goods outside SQ's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk.

TERMS AND CONDITIONS OF TRADE

- 10.4 The Client acknowledges and agrees that SQ has hereby advised the Client that any signs exceeding four and a half metres (4.5m) in height above the ground level should be installed with support stays.
- 10.5 Where SQ is required to install the Goods the Client warrants that the structure of the premises or equipment in or upon which these Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and SQ shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto.
- 10.6 The Client acknowledges that Goods supplied may exhibit variations in shade, colour, texture, surface and finish, and may fade or change colour over time. SQ will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.
- 10.7 The Client acknowledges and agrees that it is their responsibility to obtain any necessary approvals or permits from local council or government for the Services. SQ shall not be held liable for the Client's failure to comply with this clause.
- 10.8 Any advice, recommendation, information, assistance or service provided by SQ in relation to Goods or Services supplied is given in good faith, is based on SQ's own knowledge and experience and shall be accepted without liability on the part of SQ and it shall be the responsibility of the Client to confirm the accuracy and reliability of the same in light of the use to which the Client makes or intends to make of the Goods or Services.
- 11. Access**
The Client shall ensure that SQ has clear and free access to the work site at all times to enable them to undertake the scope of works. SQ shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of SQ.
- 12. Underground Locations**
12.1 Prior to SQ commencing any work the Client must advise SQ of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site.
12.2 Whilst SQ will take all care to avoid damage to any underground services the Client agrees to indemnify SQ in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 12.1.
- 13. Title**
13.1 SQ and the Client agree that ownership of the Goods shall not pass until:
(a) the Client has paid SQ all amounts owing to SQ; and
(b) the Client has met all of its obligations to SQ.
13.2 Receipt by SQ of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
13.3 It is further agreed that until ownership of the Goods passes to the Client in accordance with clause 13.1 that:
(a) the Client is only a bailee of the Goods and must return the Goods to SQ on request.
(b) SQ have a common law or statutory lien on the Good (s).
(c) the Client holds the benefit of the Client's insurance of the Goods on trust for SQ and must pay to SQ the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
(d) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for SQ and must pay or deliver the proceeds to SQ on demand.
(e) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of SQ and must sell, dispose of or return the resulting product to SQ as it so directs.
(f) the Client irrevocably authorises SQ to enter any premises where SQ believes the Goods are kept and recover possession of the Goods.
(g) SQ may recover possession of any Goods in transit whether or not delivery has occurred.
(h) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of SQ.
(i) SQ may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.
- 14. Default and Consequences of Default**
14.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at SQ's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
14.2 If the Client owes SQ any money the Client shall indemnify SQ from and against all costs and disbursements incurred by SQ in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, SQ's contract default fee, and bank dishonour fees).
14.3 Without prejudice to any other remedies SQ may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these Terms SQ may suspend or terminate the supply of Goods to the Client. SQ will not be liable to the Client for any loss or damage the Client suffers because SQ has exercised its rights under this clause.
14.4 Without prejudice to SQ's other remedies at law SQ shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to SQ shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to SQ becomes overdue, or in SQ's opinion the Client will be unable to make a payment when it falls due;
(b) the Client ceases to carry on business or stops or suspends payment or states its intention of so doing or if any cheque or bill of exchange drawn by the Client is payable to SQ is dishonoured;
(c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- 15. Personal Property Securities Act 2009 ("PPSA")**
15.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
15.2 Upon assenting to these Terms in writing the Client acknowledges and agrees that these Terms constitute a security agreement for the purposes of the PPSA and entitles SQ to claim:
(a) A Purchase Money Security Interest ("PMSI") in favour of SQ over the Collateral supplied or to be supplied to the Client as Grantor pursuant to these Terms; and
(b) A security interest over the proceeds of sale of the Collateral referred to in (a) as original collateral.
15.3 The Goods supplied or to be supplied under these Terms fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms.
15.4 The Proceeds of sale of the Collateral referred to in clause 15.2 (a) falls within the PPSA classification of "Account".
15.5 SQ and the Client acknowledge that SQ, as Secured Part, is entitled to register its Security Interest in the Collateral supplied or to be supplied to the Client pursuant to these Terms and in the relevant Proceeds.
15.6 The Client undertakes to:
(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to date in all respects) which SQ may reasonably require to:
(i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
(ii) register any other document required to be registered by the PPSA; or
(iii) correct a defect in a statement referred to in clause 15.6(a)(i) or 15.6(a)(ii);
(b) indemnify, and upon demand reimburse, SQ for all costs and expenses (including legal costs and expenses on a solicitor/client basis) incurred in registering, amending or discharging a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby or enforcing or attempting to enforce any Security Interest granted to SQ by the Client;
(c) not register a financing change statement in respect of a security interest without the prior written consent of SQ;
(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of SQ;
(e) immediately advise SQ of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
15.7 SQ and the Client agree that sections 96, 125, 130 and 143 of the PPSA do not apply to the security agreement created by these Terms.
15.8 The Client waives their rights to receive notices under sections 95, 118, 121(4), 123, 130, 132(3)(d), 132(4) and 135 of the PPSA.
15.9 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
15.10 Unless otherwise agreed to in writing by SQ, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
15.11 The Client must unconditionally ratify any actions taken by SQ under clauses 15.3 to 15.8.
15.12 All payments received from the Client must be applied in accordance with section 14(6)(c) of the PPSA.
15.13 Subject to any express provisions to the contrary nothing in these Terms is intended to have the effect of contracting out of any of the provisions of the PPSA.
- 16. Security and Charge**
16.1 In consideration of SQ agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these Terms (including, but not limited to, the payment of any money).
16.2 The Client indemnifies SQ from and against all SQ's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising SQ's rights under this clause.
16.3 The Client irrevocably appoints SQ and each director of SQ as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 16 including, but not limited to, signing any document on the Client's behalf.
- 17. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)**
17.1 The Client must inspect the Goods on delivery and must within seven (7) days of delivery notify SQ in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow SQ to inspect the Goods. To the extent permitted by law, after this deadline has passed, the Goods are considered as delivered and approved.

TERMS AND CONDITIONS OF TRADE

- 17.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA may be implied into these Terms (**Non-Excluded Guarantees**).
- 17.3 SQ acknowledges that nothing in these Terms purports to modify or exclude the Non-Excluded Guarantees.
- 17.4 Except as expressly set out in these Terms or in respect of the Non-Excluded Guarantees, SQ makes no warranties or other representations (express or implied) under these Terms including but not limited to the quality or suitability of the Goods. SQ's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 17.5 If the Client is a consumer within the meaning of the CCA, SQ's liability is limited to the extent permitted by section 64A of Schedule 2.
- 17.6 If SQ is required to replace the Goods under this clause or the CCA, but is unable to do so, SQ may refund any money the Client has paid for the Goods.
- 17.7 If the Client is not a consumer within the meaning of the CCA, SQ's liability for any defect or damage in the Goods is:
- limited to the value of any express warranty provided to the Client by SQ at SQ's sole discretion;
 - limited to any warranty to which SQ is entitled, if SQ did not manufacture the Goods;
 - otherwise negated absolutely.
- 17.8 Subject to this clause 17, returns will only be accepted provided that:
- the Client has complied with the provisions of clause 17.1; and
 - SQ has agreed that the Goods are defective; and
 - the Goods are returned within a reasonable time at the Client's cost (if that cost is not significant); and
 - the Goods are returned in as close a condition to that in which they were delivered as is possible.
- 17.9 Notwithstanding clauses 17.1 to 17.8 but subject to the CCA, SQ shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- the Client failing to properly maintain or store any Goods;
 - the Client using the Goods for any purpose other than that for which they were designed;
 - the Client continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - the Client failing to follow any instructions or guidelines provided by SQ;
 - fair wear and tear, any accident, or act of God.
- 17.10 Notwithstanding anything contained in this clause if SQ is required by a law to accept a return then SQ will only accept a return on the conditions imposed by that law.
- 18. Intellectual Property**
- 18.1 Where SQ has designed, drawn or developed Goods for the Client, then the copyright in any designs and drawings and documents shall remain the property of SQ.
- 18.2 The Client warrants that all designs, specifications or instructions given to SQ will not cause SQ to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify SQ against any action taken by a third party against SQ in respect of any such infringement.
- 18.3 The Client agrees that SQ may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which SQ has created for the Client.
- 18.4 The Client must indemnify and keep indemnified SQ against any and all liabilities, expenses, losses and/or damages including legal fees whether direct, indirect or consequential, arising from a third party, alleging that the Goods infringe the Intellectual Property Right of the third party due to SQ's use in the production of the Goods of any branding, artwork or other intellectual property provided to SQ by the Client.
- 19. Indemnity**
- To the full extent permitted by law, the Client will indemnify SQ and keep SQ indemnified from and against any liability and any loss or damage SQ may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms by the Client or its representatives.
- 20. Cancellation**
- 20.1 SQ may cancel any contract to which these Terms apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice SQ shall repay to the Client any money paid by the Client for the Goods. SQ shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 20.2 In the event that the Client cancels delivery of Goods, SQ may charge a cancellation fee determined in its sole discretion and the Client shall be liable for any and all loss incurred (whether direct or indirect) by SQ as a direct result of the cancellation (including, but not limited to, any Consequential Loss).
- 20.3 Cancellation of orders for Goods made to the Client's specifications, or for nonstocklist items, will not be accepted once production has commenced, or an order has been placed.
- 21. Personal Information**
- The Client acknowledges and agrees to SQ collecting and using its personal and credit related information in connection with these Terms. Such information will be used and disclosed in accordance with SQ's Privacy Policy which is available on its website and on request,
- allow the credit reporting agency to create or maintain a credit information file containing information about the Client.
- 21.2 The information given to the credit reporting agency may include:
- personal particulars (the Client's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
 - details concerning the Client's application for credit or commercial credit and the amount requested;
- advice that SQ is a current credit provider to the Client;
 - advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
 - that the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
 - information that, in the opinion of SQ, the Client has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Client's credit obligations);
 - advice that cheques drawn by the Client for one hundred dollars (\$100) or more, have been dishonoured more than once;
 - that credit provided to the Client by SQ has been paid or otherwise discharged.
- 22. Unpaid Seller's Rights**
- 22.1 Where the Client has left any item with SQ for repair, modification, exchange or for SQ to perform any other service in relation to the item and SQ has not received or been tendered the whole of any moneys owing to it by the Client, SQ shall have, until all moneys owing to SQ are paid:
- a common law or statutory lien on the item; and
 - the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.
- 22.2 The lien of SQ shall continue despite the commencement of proceedings, or judgment for any moneys owing to SQ having been obtained against the Client.
- 23. On-Sale**
- The Customer agrees that upon the on-sale of any Goods to third parties, it will:
- inform any third party involved of these Terms;
 - inform any third party of SQ's product warranties if any; and
 - not make any misrepresentations to third parties about the Goods.
- 24. Force Majeure**
- 24.1 SQ will not be liable for the consequences of any failure or delay in performing any of its obligations under these Terms to the extent that such failure or delay is due directly or indirectly to any Force Majeure Event.
- 24.2 If a Force Majeure Event arises, SQ will notify the Client in writing of the Force Majeure Event and the likely impact it will have on SQ's performance under these Terms. If the Force Majeure Event affects the capacity of SQ to complete its material obligations under these terms in a timely manner, SQ may by notice to the Client terminate this Agreement without any liability whatsoever on its part arising from that termination.
- 25. General**
- 25.1 The failure by SQ to enforce any provision of these Terms or right or remedy shall not be treated or implied as a waiver of that provision, nor shall it affect SQ's right to subsequently enforce that provision, right or remedy. Any provision of these Terms found to be invalid, void, illegal or unenforceable to that extent are severed from these Terms and the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 25.2 These Terms and any contract to which they apply shall be governed by the laws of New South Wales in which SQ has its principal place of business, and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales, Australia and any courts which may hear appeals from those courts in respect to any proceedings in connection with these Terms ...
- 25.3 Neither party excludes or limits the application of any statute (including but not limited to the CCA) as amended from time to time and its schedule 2, the Australian Consumer Law), where to do so would contravene that statute or cause a provision of these Terms to be void. Any stated exclusion or limitation in this Terms is only to the full extent permitted at law.
- 25.4 Subject to clause 17 SQ shall be under no liability whatsoever to the Client for any indirect and/or Consequential Loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by SQ of these Terms (alternatively SQ's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 25.5 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by SQ nor to withhold payment of any invoice because part of that invoice is in dispute.
- 25.6 SQ may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 25.7 These Terms contain all of the terms and conditions of the contract between the parties and the Client agrees that SQ may amend these Terms at any time. If SQ makes a change to these Terms, then that change will take effect from the date on which SQ notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for SQ to provide Goods to the Client.
- 25.8 The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.