

APPENDIX 2

VIVA ENERGY POLYMERS PTY LTD A.B.N. 42 004 327 762 STANDARD TERMS AND CONDITIONS OF SALE

1. Governing Terms and Conditions

- (a) The terms and conditions in this document apply to the sale of Product from Viva Energy Polymers Pty Ltd. ("Supplier") to Customer. These terms and conditions prevail over any terms or conditions in any Customer documents and, together with any other conditions expressly agreed to in writing by Supplier and Customer in relation to a specific order, represent the entire agreement between Supplier and Customer. To avoid inconsistent provisions applying, no purchase order confirmation or other document issued by Customer will vary this Agreement, except as expressly agreed to in writing by Supplier.
- (b) When Customer places an order for Product with Supplier, accepts delivery of Product, makes payment or complies with these terms and conditions, Customer has accepted them.

2. Definitions

"Account" means an account within the meaning of the PPS Act;

"Agreement" means any contract between Supplier and Customer in relation to the Product;

"Chattel Paper" means chattel paper within the meaning of the PPS Act;

"PMSI" means a 'purchase money security interest' within the meaning of the PPS Act;

"PPS Act" means, if these terms and conditions are governed, in accordance with clause 27 of these terms and conditions, by:

(i) the law in force in Victoria, Australia: the PPS Act (Australia);
and

(ii) the law in force in New Zealand: the PPS Act (New Zealand);

"PPS Act (Australia)"] means the *Personal Property Securities Act 2009 (Cth)*;

"PPS Act (New Zealand)"] means the *Personal Property Securities Act 1999*;

"PPS Lease" means, as the context requires:

(i) a 'PPS lease' within the meaning of the PPS Act (Australia); or

(ii) 'a lease for a term of more than one year' within the meaning of the PPS Act (New Zealand);

“Proceeds” means ‘proceeds’ within the meaning of the PPS Act;

“Product” means all or any part of materials or goods supplied or to be supplied to Customer by Supplier;

“Secured Moneys” means all debts and monetary liabilities Customer owes to Supplier on any account or in relation to any agreement between Supplier and Customer for the sale of Product and in any capacity and irrespective of whether the debts or liabilities:

- (i) are present or future;
- (ii) are actual, prospective, contingent or otherwise;
- (iii) are at any time ascertained or unascertained;
- (iv) are owed or incurred by or on account of Customer alone, or severally or jointly with any other person;
- (v) are owed to or incurred for the account of Supplier alone, or severally or jointly with any other person;
- (vi) are owed to any other person as agent (whether disclosed or not) for or on behalf of Supplier;
- (vii) are owed or incurred as principal, interest, fees, charges, taxes, damages (whether for breach of contract or tort or incurred on any other ground), losses, costs or expenses, or on any other account;
- (viii) are owed to or incurred for the account of Supplier directly or as a result of:
 - A. the assignment to Supplier of any debt or liability of Customer; or
 - B. any other dealing with any such debt or liability;
- (ix) are owed to or incurred for the account of Supplier before the date of this Agreement, before the date of any assignment of this Agreement by Customer to any other person or otherwise; or
- (x) comprise any combination of the above.

“Security Agreement” means a security agreement within the meaning of the PPS Act;

“Security Interest” means a security interest within the meaning of the PPS Act; and

“Verification Statement” means a verification statement within the meaning of the PPS Act.

3. Security Interests

- (a) Under this Agreement, Customer grants Security Interests to Supplier including without limitation:
 - i. first, a retention of title in respect of the Product (in accordance with clause 9);
 - ii. secondly, a charge over the Product (in accordance with clause 10); and
 - iii. thirdly, over Value Added Goods (in accordance with clause 9(f)(ii)).

- (b) This Agreement constitutes a Security Agreement.
- (c) Supplier may perfect its Security Interests by lodging a financing statement on the Personal Property Securities Register established under the PPS Act.

4. Quotations and Price

- (a) If Supplier gives Customer a quotation, Supplier is not making Customer an offer. Supplier may withdraw or alter the quotation without giving Customer notice. If Supplier does not withdraw the quotation, it is valid for the period stated (or if no period is stated, for thirty (30) days from its date).

Any description of the Product in a quotation or elsewhere is given for the purposes of identification only and will not give rise to a contract of sale by description.

- (b) An order placed by Customer will become binding on Supplier only when Supplier accepts it in writing or when Supplier delivers the Product, whichever is earlier.
- (c) Unless Supplier otherwise agrees in writing, the price of the Product will be in accordance with the Supplier's price list or the price for the Product otherwise current at the time Supplier accepts the order. Any price concession or discount Supplier provides to Customer will cease to apply if Customer breaches this Agreement. Supplier may vary the price charged for the Product, effective for all orders placed after Supplier gives written notice to Customer.

5. GST

- (a) Unless stated otherwise, the price does not include goods and services tax (GST) (as defined in Australia in A New Tax System (Goods and Services Tax) Act 1999 (Cth), or as payable in New Zealand under the Goods and Services Tax Act 1985).
- (b) To the extent that any supply made under or in connection with this Agreement is a taxable supply, the GST exclusive consideration otherwise to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST exclusive consideration is otherwise to be paid or provided. The supplier must provide a tax invoice to the recipient of the taxable supply.
- (c) If a government or other competent authority imposes, alters or repeals any tax or other levies in connection with the manufacturing, sale, exports or delivery (including but not limited to any tax or other levies on raw materials), Supplier may at any time adjust the price accordingly or may rescind the Agreement by written notice to Customer.
- (d) Each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement.
- (e) This clause 12 survives the expiry or termination of this Agreement.

6. Payment

- (a) Unless otherwise agreed in writing, Customer must pay Supplier for the Product purchased within twenty-one (21) days after the end of the month in which the Product was delivered, without setting off any amounts Supplier may owe to Customer. Supplier reserves the right to set off any amount Supplier owes to Customer, against any amount Customer owes to Supplier.
- (b) When the payment due date falls on a weekend or public holiday, payment will be made on the prior working day.
- (c) Payment will be made by Customer direct to Supplier's bank account through Supplier's Electronic Funds Transfer (EFT) facility.
- (d) Supplier may require immediate payment of all unpaid monies (whether or not actually due by Customer):
 - if any of the following occurs:
 - A. an order is made, or a resolution is passed, to wind up Customer, a meeting is called to consider a resolution to wind up Customer or a provisional liquidator is appointed;
 - B. a receiver or receiver and manager is appointed over the whole or part of Customer's business or assets;
 - C. Customer enters any arrangement or composition with any of Customer's creditors;
 - D. Customer is placed under administration, a meeting is called or some other step taken to place Customer under administration;
 - E. Customer cannot pay its debts as they fall due; or
 - F. Customer does not comply with this Agreement, or
 - (ii) if Supplier considers (in its sole discretion) that Customer's creditworthiness has become unsatisfactory.
- (e) If Customer does not pay in full by the due date, Supplier may charge Customer a late payment fee. This late payment fee is a daily charge applied on each day from the due date until full payment is made, and is a reasonable pre-estimate of Supplier's loss resulting from Customer's failure to make payment when it is due. The daily charge (including GST) is the overdue amount multiplied by the Daily Rate. The "Daily Rate" is the rate determined by dividing the Annual Rate by 365. On any day the "Annual Rate" is the rate that is 2% per annum above the prevailing ANZ prime overdraft rate for overdrafts of \$100,000 or more.
- (f) Customer must pay all expenses incurred by Supplier in enforcing its rights under this Agreement.
- (g) Supplier may require Customer to pay cash when or before the Product is dispatched, or to provide security that Supplier deems satisfactory.
- (h) If Customer fails to make any payment in full as and when it is due and until the payment has been made, or if any of the events referred to in Clause 6(d)

occur, Supplier may, in addition to other things, withhold any Product or parts of Product in transit, suspend or cancel the supply of Product under any accepted order or suspend the acceptance of any further orders made by Customer.

- (i) Any order made by Customer or quotation given by Supplier to Customer is subject to general credit approval and specific credit limits Supplier sets for Customer in its reasonable discretion. If Customer places an order which, on its own or cumulated with the value of previous orders for which Supplier has not yet received payment in full, exceeds the credit limit set by Supplier for Customer, Supplier may in its sole and absolute discretion, at any time and without notifying Customer, suspend or cancel those orders or all or any part of any delivery under such orders, for as long as Customer's credit limit is exceeded, including any order which Supplier has already confirmed.

7. Delivery

- (a) Any delivery time given is only an estimate. Supplier is not liable to Customer for any loss or damage suffered or incurred as a result of late or early delivery.
- (b) Customer must accept and pay for the Product even if delivered late.
- (c) The terms of delivery will be as agreed between Customer and Supplier for each order. The terms of delivery will be interpreted on the basis of Incoterms 2010, except in the case of a conflict with this Agreement (in which case this Agreement will prevail) or unless otherwise agreed.
- (d) Unless otherwise agreed in writing, delivery takes place when Supplier notifies Customer that they may collect the Product from Supplier's premises or the Product is otherwise collected from Supplier's premises on Customer's behalf.
- (e) Supplier may deliver the Product in installments. Each installment will be treated as a sale under this Agreement. If Supplier fails to deliver any installment, Customer must still accept and pay for the remaining installments. If Customer does not pay for an installment, Supplier may treat the non-payment as a breach of contract relating to the other installments.
- (f) If Supplier and Customer agrees to arrange delivery of the Product to Customer's premises, Customer undertakes to provide adequate and proper facilities for the reception and storage of the Product at the expected delivery date and Customer warrants that those facilities comply with all relevant statutes or regulations, including health and safety regulations and that all necessary permits and licences have been obtained.

8. Risk

Risk of damage to or loss of the Product passes to Customer at the time of delivery. Supplier is not liable to Customer for any loss or damage or deterioration of the Product after delivery, even if Supplier arranged freight.

9. Title

- (a) Supplier retains title to and ownership of the Product until Customer has paid all monies owed to Supplier in respect of the supply of the Product.

- (b) Customer acknowledges and agrees that:
 - (i) Supplier's rights in the Product established by clause 9(a) are a PMSI; and
 - (ii) Supplier will have a PMSI in any Proceeds of the Product.
- (c) Until title passes to Customer, Customer holds the Product on Suppliers behalf as bailee and Customer acknowledges that a fiduciary relationship exists between Customer and Supplier. Customer must store the Product so that it is clearly identifiable as belonging to Supplier, and Customer must return the Product to Supplier if requested. Supplier can retake possession of any Product in Customer's possession if any of the events in clause 6(d) occur. Customer must take out and pay for insurance sufficient to cover both Supplier's and Customer's interests in the Product. The insurance must be in both the names of Supplier and Customer. At the request of Supplier, Customer will provide a certificate of insurance to show compliance with this clause 9(c).
- (d) Within seven (7) days after the end of each month, Customer must, if requested by Supplier, provide a statement for the relevant month showing the quantity and type of Product used or sold and the quantity and type in Customer's possession. Customer must keep accurate records to support the monthly statements. Customer must allow Supplier to review and copy the records to verify the monthly statements.
- (e) Customer will allow Supplier to enter any premises under Customer's control where the Product is kept for the purposes of inspecting the Product or to repossess the Product in the event of any Customer default under these terms.
- (f) If title in the Product has not passed to Customer, Customer may use the Product in, or subject the Product to, any manufacturing, mixing or other value adding process ("**Value Adding Process**"). If Customer chooses to do so:
 - (i) title in and to the Product will remain with Supplier, unless the effect of the Value Adding Process is to destroy the essential identity or character of the Product, even if benefit accrues to Supplier as a result;
 - (ii) where the essential identity or character of the Product is destroyed, Customer will hold such part of the product of the Value Adding Process as relates to the price of the product which form part of, or a constituent ingredient of, the product on trust for Supplier ("**Value Added Goods**").
- (g) Customer acknowledges that, if any Product or Value Added Goods are sold before Customer has paid for all Product in full, Customer is selling as a fiduciary agent of Supplier, provided that such sales will not give rise to any obligations on Supplier's part. Customer will hold the price of the Product, or the part of the Proceeds that relate to the Product, on trust for Supplier. Customer must hold these Proceeds in a separate account that clearly identifies the Proceeds as monies held on trust for and on behalf of Supplier.
- (h) The Security Interest arising under this clause 9 attaches to the Product when Customer obtains possession of the Product and the parties confirm that they

have not agreed that any Security Interest arising under this clause 9 attaches at any later time.

10. Charge

In addition to Supplier's rights in clause 9, as security for the due and punctual payment of the Secured Moneys, Customer:

- (a) charges and grants a Security Interest in all of its present and future rights and interest in the Product to Supplier; and
- (b) charges to Supplier, as an additional and separate Security Interest, all present and future Accounts, Chattel Paper and all other rights which form part of or relate to the Product or any part of them at any time.

11. PPS Act (Australia) Enforcement Provisions

- (a) All of the enforcement provisions of Chapter 4 of the PPS Act (Australia) apply to all of the Security Interests created under or referred to in these terms, except as excluded by (b).
- (b) The following provisions of the PPS Act (Australia) will not apply to the enforcement of these terms:
 - 1) section 95 (notice of removal of accession), to the extent that it requires Supplier to give a notice to Customer;
 - 2) subsection 121(4) (enforcement of liquid assets – notice to grantor);
 - 3) section 130 (notice of disposal), to the extent that it requires Supplier to give Customer a notice;
 - 4) paragraph 132(3)(d) (contents of statement of account after disposal);
 - 5) subsection 132(4) (statement of account if no disposal);
 - 6) section 135 (notice of retention);
 - 7) section 142 (redemption of collateral); and
 - 8) section 143 (reinstatement of security agreement).
- (c) Supplier is also not obliged to give notice of a verification statement under section 157 of the PPS Act (Australia).
- (d) Customer consents to the waiver of the requirement for notice, copies of documents or information under clause 11(b) and (c) above.

12. PPS Act (New Zealand) Enforcement Provisions

- (a) The Supplier and the Customer agree that nothing in sections 114(1)(a), 117(1)(c), 133 and 134 of the PPS Act (New Zealand) will apply to these terms and conditions.
- (b) The Supplier and the Customer also agree that the following rights of the Customer as debtor under the PPS Act (New Zealand) will not apply:
 - 1) To receive a statement of account under section 116;
 - 2) to recover surplus under section 119;

- 3) to receive notice of a secured party's proposal to retain collateral under section 120(2);
- 4) object to a secured party's proposal to retain collateral under section 121;
- 5) not to have goods damaged when a secured party removes an accession under section 125;
- 6) refuse permission to remove an accession under section 127;
- 7) receive notice of the removal of an accession under section 129;
- 8) apply to the Court for an order concerning the removal of an accession under section 131; and
- 9) redeem collateral under section 132.

13. Quantity Discrepancy

- (a) If the quantity of Product delivered is less than the amount ordered by Customer, Customer must notify Supplier in writing of the shortfall within seven (7) days after delivery. Otherwise, Customer will be deemed to accept that the correct quantity of Product has been delivered and must pay for Product in full despite the shortfall.
- (b) If the quantity of Product delivered is more than the amount ordered, Customer must immediately inform Supplier in writing and Supplier is entitled to charge Customer for the excess or recover the excess from Customer.

14. Change of Circumstances

In the event of any circumstances arising during the term of this Agreement which would result in changes whereby either the Supplier or Customer is disadvantaged, Supplier and Customer will meet together to endeavour to agree on steps which might be taken in order to eliminate such disadvantage or reduce it. Without limiting the generality of the aforesaid, examples of changes likely to cause hardship might be a significant variation in hydrocarbon feedstock costs, inability to obtain raw materials supplies (e.g., plant shutdown), the closure of Supplier's manufacturing site(s) for any reason, and the rate of exchange between the Australian dollar and other currencies. If during the meeting Supplier and Customer cannot reach an agreement, either Supplier or Customer will have the right to terminate this Agreement upon three (3) months prior written notice to the other party. During this time, previously operating prices will apply. In this Clause 14, "**Supplier**" also includes parent companies and affiliates, joint ventures and joint ventures of parent companies and affiliates, toll manufacturers and toll manufacturers of parent companies and affiliates, whichever produces the Product under this Agreement.

15. Termination

- 15.1 This Agreement may at any time be terminated immediately by either party (acting reasonably), by written notice to the other party if that other party breaches a material term of this Agreement (not including a warranty) and, if the

breach is capable of being remedied, that other party fails to remedy the breach within 30 days of a written notice requiring the breach to be remedied.

- 15.2 The Supplier may, at any time by giving notice to the Customer, immediately terminate this Agreement if:
- (a) the Customer becomes insolvent, or enters into any composition or arrangement with creditors, or a petition is presented or a meeting is called for the purpose of winding up the Customer for whatever reason, or the Customer has a manager or receiver or administrator appointed in respect of the whole or any part of its undertaking or assets, or the Customer is declared or becomes bankrupt;
 - (b) there is a change in control of the Customer which has not first been approved in writing by the Supplier, which approval must not be unreasonably withheld; or
 - (c) the Customer has failed to pay an amount by the Due Date on 3 occasions in any 6 month period.
- 15.3 Termination under this clause 15 or otherwise is without prejudice to the rights of either party which have accrued prior to or on such termination and the obligations of the parties which are expressed or implied to continue after the termination of this Agreement will do so.
- 15.4 If at any time:
- (a) this Agreement is terminated otherwise than by reason of a breach by the Supplier; or
 - (b) any of the events described in clause 15.2 occur,
- every amount then owing by the Customer to the Supplier and any amount that has not yet become due in respect of deliveries made before that time, shall become immediately payable by the Customer to the Supplier.
- 15.5 Nothing in this Agreement requires the Supplier to sell any Products to the Customer unless the Customer has paid for Products previously supplied for which payment is then due and the Customer has otherwise complied with this Agreement.

16. Force Majeure

- (a) Supplier is not liable for failure to comply with this Agreement if the failure (directly or indirectly) arises out of any circumstances which are not within Supplier's reasonable control. If such circumstances occur, Supplier may delay or cancel delivery of the Product or reduce the quantity to be delivered.
- (b) The following are examples of situations beyond Supplier's reasonable control: strikes; lock-outs; other industrial action (whether or not the Supplier is a party to it or would be able to influence or procure its settlement); accidents; war (declared or undeclared); acts of terrorism; fire; flood; accident, explosion; shortage of power; breakdowns of plant

or machinery; shortage of, any curtailment or failure of, the supplies of Products or the raw or other materials from the Supplier's normal sources of supply or the Supplier's supplier's sources of supply or of the normal means of transport of Product; acts of God; and any order, request or direction of any local, State or Federal Government, Government authority or instrumentality (within the Commonwealth of Australia or elsewhere).

- (c) Supplier is not obliged to remedy such circumstances. Supplier is especially not obliged to settle any strike, lock-out or any other kind of labor dispute.
- (d) In this Clause 15, "**Supplier**" also includes parent companies and affiliates, joint ventures and joint ventures of parent companies and affiliates, toll manufacturers and toll manufacturers of parent companies and affiliates, whichever produces the Product under this Agreement.

17. Cancellation

- (a) Customer cannot cancel any order or Agreement or return any Product unless Supplier first agrees in writing. Supplier will not agree to any cancellation or return unless Customer indemnifies Supplier for all loss or damage suffered or incurred as a result of the cancellation or return. Supplier may cancel any order or Agreement if Supplier may be unable to supply the Product.
- (b) If any of the events set out in clause 6(d) occur or if the Product remains uncollected after fourteen (14) days from notice that the Product is ready for collection, Supplier may cancel the whole or part of an order or Agreement by giving Customer notice. If Supplier cancels in these circumstances, Customer must pay Supplier for any loss or damage suffered or incurred as a result of the cancellation, including costs and expenses Supplier incurred before the cancellation and a reasonable cancellation fee fixed by Supplier.
- (c) Customer has no claim against Supplier and Supplier is not liable to Customer for any damage, loss, costs or expenses which Customer may suffer or incur as a result of a cancellation under this clause.

18. Medical Applications

Customer hereby warrants that:

- (a) Product will not, directly or indirectly, by Customer or by any third party, be used in any of the following applications without prior written approval by Supplier for each specific product and application: U.S. FDA Class I or Class II medical devices; Health Canada Class I, Class II or Class III medical devices; European Union Class I or Class II medical devices; or similar classifications by any regional, national, or local governments; film, overwrap and/or product packaging that is considered a part or component of one of the aforementioned medical devices; and packaging in direct contact with a pharmaceutical active ingredient and/or dosage form that is intended for inhalation, injection, intravenous administration, nasal spray or ophthalmic (eye) administration.

- (b) Product will not, directly or indirectly, by Customer or by any third party, be used in any of the following applications: U.S. FDA Class III medical devices; Health Canada Class IV medical devices; European Class III medical devices; or similar classifications by any regional, national, or local governments; applications involving permanent implantation into the body and life-sustaining medical applications.

19. Technical Assistance

Any technical advice, assistance, testing or reports furnished by Supplier or any of Supplier's affiliates to Customer with respect to (i) the selection or use of the Product delivered to Customer or (ii) the storing, handling or usage of Product (collectively, the "**Technical Assistance**") will be given and accepted at Customer's sole risk, and Supplier will have no liability whatsoever for the use of, or results obtained from, the Technical Assistance. Customer agrees that Supplier or Supplier's affiliates, agents, officers, directors, employees, representatives and insurers will not be liable or responsible for any aspects of the Technical Assistance, including the preparation and delivery thereof. Customer agrees to indemnify Supplier or Supplier's affiliates, agents, officers, directors, employees, representatives and insurers from and against any and all loss, damage or liability resulting from demands, claims, suits, or actions with regard to any action relating to the Technical Assistance. The indemnity provided will include, but not be limited to court costs, attorneys' fees, costs of investigation, costs of defence, settlements, and judgments associated with such demands, claims, suits or actions. The indemnification will survive the cancellation, termination, completion, or expiration of this Agreement.

20. Limitation of Liability

- (a) Except for such representations, warranties or guarantees as cannot be excluded by virtue of the Consumer Guarantees Act 1993 (New Zealand) or the Competition and Consumer Act 2010 (Australia), all terms, conditions, warranties or undertakings whether express or implied, statutory or otherwise, oral or written, relating to the sale of Product, or to this Agreement are excluded to the fullest extent permitted by law.
- (b) Customer must examine Product upon delivery. If Product is not of merchantable quality, does not conform to any agreed specification or has defects, Customer must notify Supplier in writing within thirty (30) days of delivery. If Customer does not notify Supplier within thirty (30) days, Customer will be deemed to have accepted the Product as being of merchantable quality, free from defects and compliant with the agreed specification.
- (c) Supplier has the right to examine the Product subject of a notification under paragraph (b) and Customer must either return the Product to Supplier, or if they are not capable of redelivery, Customer must make the Product available for inspection by Supplier and permit Supplier to take samples.
- (d) Supplier's liability to Customer will not in any case exceed and will be completely discharged by:
 - (i) replacing the Product or supplying equivalent Product; or

- (ii) paying the cost of replacing the Product or of acquiring equivalent Product, and the limitation will apply to liability howsoever arising whether in contract or in tort (including negligence). In no circumstances will Supplier be liable to Customer for any indirect, incidental, consequential or special loss, including loss of profits, sales, market, goodwill or reputation, or any special or exemplary damages (even if Supplier or Customer were advised of the possibility of such loss or damages).
- (e) Customer will indemnify Supplier for all liabilities, losses, damages, costs or expenses suffered or incurred by Supplier as a result of any of the following:
 - (i) Supplier's compliance or attempted compliance with Customer's instructions regarding the Product;
 - (ii) Customer's failure to:
 - A. provide or display safety information on or relating to the Product;
 - B. comply with laws relating to the use, sale, marketing, labeling or marking of Product; or
 - C. detect and bring to Supplier's attention matters for which Supplier may become liable, whether for negligence, under legislation or otherwise;
 - (iii) any statement Customer makes about the Product without Supplier's written approval;
 - (iv) the use of Product by Customer or a third party;
 - (v) any loss, damage or injury to a person or Customer's property or to others arising out of the use or possession of the Product, whether that Product is used singularly or in combination with any other substances or processes; or
 - (vi) Customer's negligence or breach of this Agreement.
- (f) Customer agrees that:
 - (i) the Product is not of a kind ordinarily acquired for personal, domestic or household use or consumption; and
 - (ii) Customer is acquiring the Product for resupply or for using it up or transforming it in the course of a process of production or manufacture in its business.
- (g) From the date on which the Product or any part of the Product has been treated, processed or changed in any manner whatsoever, subject to any liability imposed by statute, Customer will have no claim whatsoever arising directly or indirectly out of the Product or the sale of Product to Customer. Customer has the sole responsibility of determining whether the Product is suitable for any use contemplated by Customer, whether or not Supplier is aware of that use.

- (h) If Customer is directed by Supplier to assist in any suspension of supply or recall of Product for any reason, Customer must cooperate and comply with all such reasonable directions to ensure the most effective response to the suspension or recall.

21. Storage and Handling

- (a) Supplier may charge Customer for storage if Customer does not collect the Product or provide adequate delivery instructions within fourteen (14) days after notification that the Product is ready for collection. Customer must pay the charges specified by Supplier. Product stored by Supplier on Customer's behalf is at Customer's sole risk.
- (b) In storing and handling the Product, Customer must comply with all applicable laws, especially those relating to health, safety and the environment. Upon written notice, Customer must allow Supplier to enter Customer's premises to inspect the storage and handling of the Product to enable the Supplier to inspect those premises in connection with the storage and handling of the Products relevant to health, safety and the environment. Nothing in this clause places any responsibility on the Supplier for the Customer's compliance with such laws and regulations and the Supplier may withhold supply of the Products to the Customer at any time the Supplier becomes aware of or believes any supply would cause any risk or danger to health, safety or the environment.
- (c) Customer hereby agrees that Supplier will have the right to immediately cease delivery of Product to Customer, pursuant to this Agreement or otherwise, if, in Supplier's reasonable opinion, Customer fails to take necessary action, within a commercially reasonable time, to prevent or mitigate imminent endangerment to human health, safety, or the environment with regards to Customer or Customer's representatives or agents', storing, handling and usage of the Product.

22. Variation

Supplier is entitled to vary the terms and conditions in this Agreement at any time by giving Customer written notice.

23. Waiver

Even if Supplier does not insist on strict performance of this Agreement, Supplier is not taken to have waived its rights to later require strict performance. A waiver is not effective unless it is in writing. Even if Supplier provides an express waiver, this is not to be taken as a waiver of a subsequent breach of a term or condition in this Agreement.

24. Notices

- (a) Notices under this Agreement must be in writing. A notice must be delivered personally or sent by facsimile transmission or post to the other person at their last known address.

- (b) Supplier may or may not give Customer any notice under the PPS Act unless the notice is required by the PPS Act and that requirement cannot be excluded.
- (c) Customer waives any right to receive a copy of a Verification Statement under the PPS Act.

25. Severability

If any of these terms and conditions are invalid or unenforceable in any jurisdiction, they are, if possible, to be read down so as to be valid and enforceable. The read down provision will only apply in the relevant jurisdiction. If the provision cannot be read down, and it can be severed to the extent of the invalidity or unenforceability, it is to be severed. The rest of the provisions, and the validity or enforceability of the affected provision in any other jurisdiction, will not be affected.

26. Assignment

This Agreement may not be assigned by Customer without Supplier's prior written consent. Supplier may assign this Agreement to another party upon written notice to Customer of that assignment.

27. Confidentiality

The parties agree that neither party will disclose to an "interested person" (as defined in section 275(9) of the PPS Act (Australia)) or any other person, any information of the kind described in section 275(1) of the PPS Act (Australia). Customer will not authorise the disclosure of any information of the kind described in section 275(1) of the PPS Act (Australia).

28. Governing Law and Jurisdiction

This Agreement is construed and shall be governed in accordance with the laws of Victoria, Australia and the parties agree to submit to the non-exclusive jurisdiction of the courts of Victoria, Australia and any courts which may hear appeals from those courts.