

TERMS AND CONDITIONS OF PURCHASE FOR GOODS AND SERVICES.

The terms and conditions of purchase set out below, as amended from time to time, apply to purchase orders issued by Perfection for the purchase of Goods and/or Services to any Supplier, where there is no other written agreement between the Supplier and Perfection. Perfection is not bound by the Supplier's terms of sale or any other conditions the Supplier seeks to impose on, or that purport to apply to, the supply of Goods and/or Services by the Supplier to Perfection other than these terms and conditions and a Purchase Order. These terms and conditions take effect on and from **1 July 2021**.

1. Interpretation

1.1 In these terms and conditions, unless the context requires otherwise:

'**Australian Consumer Law**' means the Australian Consumer Law set out in Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

'**Business Day**' means a day on which banks are open for business in Melbourne, Sydney and Adelaide, Australia, excluding a Saturday, Sunday or public holiday.

'**Corporations Act**' means the *Corporations Act 2001* (Cth).

'**Defective Goods**' means Goods that fail to comply with the relevant Specifications, are not fit for purpose, damaged, defective, incomplete or are otherwise defective in the reasonable opinion of Perfection.

'**Defective Services**' means Services that fail to comply with the relevant Specifications, are not fit for purpose, defective, incomplete or are otherwise defective in the reasonable opinion of Perfection.

'**Delivery Address**' means the delivery address specified by Perfection in a Purchase Order or any other delivery location agreed between the parties in writing.

'**Delivery Date**' means the date or within the period stated in a Purchase Order or any other delivery date agreed between the parties in writing.

'**Force Majeure Event**' means any act, event or cause outside of the reasonable control of the parties, including an act of God, peril of the sea, accident of navigation, war, sabotage, riot, act of terrorism, insurrection, civil commotion, national emergency (whether in fact or law), martial law, fire, lightning, flood, cyclone, earthquake, landslide, storm or other adverse weather conditions, explosion, power shortage, pandemic (including COVID-19), epidemic, quarantine, radiation or radioactive contamination, act or order of government agency, to the extent that the act, event or cause: (a) could not have been prevented by reasonable precautions, or could not reasonably have been circumvented by means of alternate sources, workarounds or other means; and (b) directly results in a party being prevented from or delayed in performing any of its obligations under these terms and conditions.

'**Goods**' means all goods supplied by the Supplier to Perfection as described in a Purchase Order (if any).

'**GST**' has the meaning given to that term in the GST Law.

'**GST Law**' means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any regulation or other statutory instrument issued under that Act.

'**Insolvency Event**' means in relation to a party, any one or more of the following events or circumstances: (a) being declared bankrupt, or being in liquidation or provisional liquidation or under administration; (b) having a controller (as defined in section 9 of the Corporations Act) or analogous person appointed to it or any of its property; (c) being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand; (d) being unable to pay its debts or being otherwise insolvent; (e) becoming an insolvent under administration (as defined in section 9 of the Corporations Act); (f) entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; or (g) any analogous event or circumstance under the laws of any jurisdiction; unless such event or circumstance occurs as part of a solvent reconstruction, amalgamation, compromise, arrangement, merger or consolidation approved by the other party (which approval is not to be unreasonably withheld).

'**Intellectual Property Intellectual**' means all intellectual and industrial property rights and interests throughout the world, whether registered or unregistered, including trademarks, designs, patents, inventions, circuit layouts, copyright and analogous rights, confidential information, "know-how" and all other intellectual property rights as defined in Article 2 of the convention establishing the World Intellectual Property Organisation of 14 July 1967 as amended from time to time.

'**Modern Slavery Laws**' means the *Modern Slavery Act 2018* (Cth), the *Modern Slavery Act 2018* (NSW), Chapter 4, Division 73 of the *Criminal Code Act 1995* (Cth) and any relevant regulations or ancillary legislation published in respect of the above or any similar modern slavery legislation in another jurisdiction of which the Supplier is required to comply.

'**Modern Slavery Offence**' means any activity, conduct or practice that would constitute an offence in relation to slavery, forced labour, involuntary servitude, debt bondage, human trafficking, forced or servile marriage, the sale and exploitation of children and other slavery-like exploitation as prohibited or defined as a modern slavery offence under anti-slavery and human trafficking laws, statutes and codes from time to time in force including under any of the Modern Slavery Laws.

'**Perfection**' means as applicable Como Glasshouse No 2 Pty Ltd ACN 604 272 942, Perfection Fresh Australia Pty Ltd ACN 127 389 682, or their Related Bodies Corporate that purchases Goods and/or Services from the Supplier pursuant to a relevant Purchase Order.

'**Personnel**' mean all employees, officers, agents, contractors and sub-contractors of a party.

'**PPSA**' means the *Personal Property Securities Act 2009* (Cth).

'**Price**' means the amount payable by Perfection to the Supplier in respect of the supply of Goods or Services under a Purchase Order (exclusive of GST) but including any charges set out in clause 9.2.

'**Purchase Order**' means an order for the supply of Goods and/or Services by the Supplier to Perfection and these terms and conditions (including any variations).

'**Related Entity**' has the meaning given to that term in the Corporations Act.

'**Related Bodies Corporate**' has the meaning given to that term in section 9 of the *Corporations Act 2001* (Cth).

'**Services**' means the services supplied by the Supplier to Perfection as described in a Purchase Order (if any).

'**Specification**' means such technical, quality or other specification relating to Goods and/or Services referred to in a Purchase Order or otherwise provided by Perfection to the Supplier in connection with a Purchase Order from time to time.

'**Supplier**' means any natural person, company, partnership or other entity with whom Perfection enters into a Purchase Order.

'**Taxes**' means any tax, duty levy, charge, impost, fee, deduction, goods and services tax or payroll tax, that is assessed, levied, imposed or collected by any governmental agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above.

'**Warranty Period**' means the applicable warranty period for Goods and/or Services under the Australian Consumer Law.

1.2 In these terms and conditions: (a) reference to a document (including these terms and conditions) includes any variation or replacement of it; (b) words in singular will include the plural and vice versa; (c) any reference to "including" means "including without limitation"; (d) a reference to a person includes a firm, a body corporate, an unincorporated association or an authority, and includes the person's executors, administrators, successors, substitutes and permitted assigns; (e) a reference to any legislation or to any provision of any legislation includes any enactment, modification, consolidation or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it; (f) headings are inserted for convenience and do not affect interpretation of these terms and conditions; and (g) a reference to dollars or \$ is to an amount in the currency specified in the Purchase Order.

2. Supply of Goods and/or Services

2.1 A request for quotation by Perfection will not constitute an offer to purchase Goods and/or Services from the Supplier. No contract for the supply of Goods and/or Services will exist between Perfection and Supplier until Perfection gives the Supplier a Purchase Order in accordance with these terms and conditions and that Purchase Order has been accepted by the Supplier. Acceptance of a Purchase Order or supply of Goods and/or Services by the Supplier constitutes acceptance of these terms and conditions.

2.2 A Purchase Order is entered into between Perfection and the Supplier when the Supplier accepts, either in writing or by conduct, a Purchase Order which Perfection places for Goods and/or Services.

2.3 The Purchase Order, and these terms and conditions and the documents expressly referred to in them comprise the entire terms of the Purchase Order to the exclusion of any of the Supplier's terms and conditions (written or verbal) whether or not they are contained in the Supplier's delivery notes, agreement and invoices. In the event of a conflict between these terms and conditions and a Purchase Order, the Purchase Order will prevail.

2.4 The Supplier acknowledges and agrees: (a) that the Supplier is bound by these terms and conditions and the terms of any other documents expressly referred to in this Purchase Order whether or not the Purchase Order has been signed by it; and (b) to supply and deliver the Goods and/or Services to Perfection in accordance with a Purchase Order, these terms and conditions and the terms of any other documents expressly referred to in this Purchase Order (and supply or delivery by the Supplier is evidence of acceptance of these terms and conditions and the terms of any other documents expressly referred to in this Purchase Order).

2.5 The Supplier acknowledges that Perfection may purchase Goods and/or Services from other suppliers, and there is no guarantee of exclusivity or minimum quantity.

3. Quality and description

3.1 The Goods and/or Services must match the description (including performance criteria) referred to in the Purchase Order and Specifications.

3.2 If the Supplier gave Perfection a sample of the Goods or provided Perfection with a demonstration of the Services before Perfection issued the Purchase Order, the Goods and/or Services must correspond in nature and quality with the sample given or demonstration made, as applicable.

3.3 If the Supplier showed Perfection a result achieved by the Services before Perfection issued the Purchase Order, the Services must correspond in quality with the services that achieved that result.

3.4 The Goods and Services must comply with any relevant standard of Standards Australia. All Goods and Services which are classified by Standards Australia must be accredited to the relevant standard and (as applicable) carry the applicable current Standards Australia mark or watermark and license number.

3.5 The Goods and/or Services must be fit for the purpose for which goods and/or services of the same kind are commonly supplied or bought and for any other purpose which Perfection makes known to the Supplier. The Goods must be of merchantable quality and, unless otherwise specified in the Purchase Order, must be new.

3.6 If the Supplier supplies more Goods than specified in the Purchase Order, then Perfection may return the excess to the Supplier at the Supplier's cost.

4. Specifications

4.1 Unless otherwise agreed in writing, the Supplier is totally responsible for the design, supply of materials, fabrication, testing, packaging, loading onto and off transport and delivery of Goods and/or Services in accordance with the Specifications and the Purchase Order. The Supplier must give Perfection access to the Supplier's premises at any reasonable time to verify that the Goods and/or Services conform to the Specifications.

4.2 Substitute Goods and/or Services will not be accepted without Perfection's written authority.

4.3 All drawings, patterns, tools or other items provided to the Supplier by Perfection to produce the Goods and/or Services remain Perfection's property and must be delivered to Perfection upon demand or within 7 days of delivery of the Goods and/or Services.

5. Delivery

5.1 Unless otherwise specified, the Supplier must deliver the Goods (or perform the Services, where relevant) to the Delivery Address on the Delivery Date. Until delivery has been affected to the Delivery Address, it will be deemed to have not occurred.

5.2 Unless Perfection specifically agrees otherwise, Perfection is not required to accept delivery of the Goods earlier than the Delivery Date.

5.3 The Supplier must ensure that Goods are suitably packed to avoid damage in transit or in storage and to ensure identification on receipt and must include a packing list in each package of Goods delivered detailing the Purchase Order number, item number, destination, contents, quality, date and method of dispatch and weight of each package. On delivery of each consignment of the Goods and at the conclusion of the performance of the Services, the Supplier must deliver to Perfection such documents as are required by the Purchase Order, including, without limitation, commercial invoices, Australian packing declaration, bill of lading, developing country declaration, customs export documents (if applicable), advice notes, certificates of conformity, and if the Supplier is not the original manufacturer of the Goods, copies of the original manufacturer's certificate of conformity together with test figures, quarantine certificates etc, where applicable.

5.4 If the Supplier becomes aware that it will not be able to comply with a specified Delivery Date, the Supplier will immediately notify Perfection and provide an explanation and reasons for the delay and any suggestions for any proposed alternative delivery or performance date. The Supplier must obtain Perfection's prior written approval for any change to the Delivery Date (which may be given or refused at Perfection's absolute discretion). If approval is not obtained, and without prejudice to any other rights of Perfection: (a) the Supplier must use, and be responsible for, any express freight that may be required to guarantee that the Goods are delivered to the Delivery Address to meet the required Delivery Date. In the event that delivery is delayed by more than twenty- four (24) hours, Perfection will be entitled to cancel the Purchase Order or reject the delivery without any liability whatsoever; and (b) Perfection may engage another supplier to perform (all or part of) the Services, in which case the Supplier must at its own cost provide all reasonable assistance to Perfection, will not be entitled to any payment for the Services withdrawn and must indemnify Perfection upon demand in respect of any additional reasonable costs incurred by Perfection in connection with engaging an alternate supplier.

5.5 The Supplier will be liable for all loss, costs, expenses or damage suffered by Perfection caused by unsuitably packed Goods or as a result of the Supplier failing to satisfactorily complete delivery of the Goods and perform the Services within the agreed timeframe (including any additional delivery costs due to failure of the Supplier to deliver Goods on the Delivery Date or at the Delivery Address). The Supplier must comply with all applicable codes, packaging, controlled storage, bundling, spill kits, monitoring for the transport of dangerous goods as specified in the *Dangerous Goods Act 1985* (Vic), *Dangerous Goods (Storage and Handling) Amendment (Notification) Regulations 2021* (Vic) coming into effect on 1 July 2021 and the *Biosecurity Act 2015* (Cth).

5.6 Time is of the essence for the delivery of Goods or the supply of Services to Perfection.

6. Inspection

6.1 Perfection must have a reasonable time to inspect the Goods after delivery. The signing of delivery receipts before inspection does not constitute acceptance of the Goods.

6.2 The Supplier must provide to Perfection at Perfection's request progress reports on the performance of the Services. A progress report must be detailed enough to allow Perfection to ascertain whether the Services are in conformity with the Purchase Order.

6.3 At any time during the performance of the Services, Perfection may inspect or witness tests on the Services or their results.

6.4 If, upon inspection, Perfection finds any Goods to be Defective Goods and/or any Services or their results to be Defective Services, Perfection may (without limiting its remedies) exercise a power in clause 18.

7. Performance of the Services

7.1 The Supplier must, in performing the Services: (a) not interfere with any of Perfection's activities, or the activities of any other person, on Perfection's sites; (b) comply with, and ensure that the Supplier's Personnel comply with: (i) Perfection's site procedures; (ii) all applicable laws, regulations and industrial awards and agreements; and (iii) all directions and orders given by Perfection's Personnel; and (c) ensure that Perfection's sites are left secure, clean, orderly and fit for immediate use.

8. Title and risk

8.1 Subject to clause 8.4 and 12.2, title in the Goods passes to Perfection upon the earlier of: (a) taking delivery of the Goods; or (b) payment of the Price.

8.2 Risk in the Goods does not pass to Perfection until the later of the time at which: (a) Perfection: (i) takes delivery; or (ii) if required by the Purchase Order, the Goods have been installed; or (ii) the Goods have been accepted in accordance with clause 8.3; and (b) title in the Goods passes to Perfection.

8.3 Where acceptance tests or inspections are required for Goods and are set out in a Purchase Order, acceptance of the Goods delivered will be subject to completion of the acceptance tests or inspection by Perfection. Where no acceptance tests or inspections are required, Perfection will have the right to test or inspect the Goods after delivery and acceptance will take place if the Goods are satisfactory to Perfection on testing or inspection.

8.4 If Perfection pays the Price for the Goods prior to delivery or Perfection makes a part payment for the Goods: (a) title in the Goods (or if the Goods are incomplete, title in the partly completed Goods and any materials and parts to be used in their manufacture or assembly and then on hand) passes to Perfection; and (b) the Supplier must clearly mark the Goods with Perfection's name and Purchase Order number.

8.5 If Perfection considers that the Supplier has failed, or if the Supplier has indicated that the Supplier may be unable to fulfil any obligation under the Purchase Order, Perfection or Perfection's agent may at any time enter the Supplier's premises and remove the Goods and any materials or parts to which Perfection have title.

8.6 The Supplier warrants that: (a) the Supplier has complete ownership of the Goods free of any liens, charges and encumbrances and will provide the Goods to Perfection on that basis; and (b) Perfection will be entitled to clear, complete and quiet possession of the Goods.

8.7 Nothing in a Purchase Order creates a Security Interest (as that term is defined in the PPSA) in the Goods for the Supplier. The Supplier must not, in any circumstances, register or seek to register a security interest in the Goods under the PPSA.

9. Price

9.1 Perfection agrees to pay the Supplier the Price for the Goods and/or Services as set out in the Purchase Order. If no Price is specified in the Purchase Order, then the Supplier must confirm the Price with Perfection before the supply of the Goods or before commencing the Services. Perfection will not be bound to pay for the Goods and/or Services unless Perfection has agreed to the Price in writing before the Goods are supplied or the Services are performed. The Price set out in the Purchase Order or agreed between the Supplier and Perfection for a Purchase Order may not be amended without the prior written agreement of Perfection.

9.2 The Price is inclusive of all costs incurred by the Supplier in the supply of the Goods and/or performance of the Services including all charges for testing, inspection, freight, transportation, packaging, packing, insurance, delivery and off-loading at the Delivery Address (if required) of the Goods in accordance with the Purchase Order and the cost of any items used or supplied in conjunction with the Services. The Price is also inclusive of all Taxes except GST. The Supplier agrees that it will not be entitled to any other payments or reimbursements in respect of the Goods and Services other than the Price.

9.3 The Supplier warrants that the Price is no less favourable than the price paid by any other purchaser of the same Goods and Services supplied by the Supplier in substantially similar volumes or circumstances.

10. Invoicing and payment

10.1 The Supplier must submit invoices to Perfection via email as stated on the Purchase Order: (a) upon delivery of the Goods in accordance with the Purchase Order; and (b) unless the Purchase Order states that progress payments are to be made, at the completion of the Services; or (c) where progress payments are to be made for the provision of Services, at the end of each calendar month (or other period specified in this Contract) for Services performed by the Supplier in that month

or that period (as the case may be). All invoices must specify the amount payable, state the relevant Purchase Order number or numbers, and include reasonable detail of the Goods and Services supplied during the relevant period. Each invoice must be in a form and substance that will constitute a tax invoice (as defined in the GST Law).

10.2 When submitting the Supplier's invoice under clause 10.1 the Supplier must provide Perfection with all relevant records to enable Perfection to calculate and/or verify the amount of the invoice (including detailed timesheets).

10.3 Subject to clauses 19 and 10.4 and the Supplier not being in breach of the terms of this Purchase Order, Perfection will pay all invoices rendered to Perfection by the Supplier under clause 10.1 within thirty (30) days end of month from receipt by Perfection of the invoice.

10.4 Where Perfection disputes the invoice: (a) Perfection will pay the undisputed part of the relevant invoice (if any) by the due date for payment and withhold the amount disputed; (b) Perfection must give written notice to the Supplier within 10 Business Days after receiving the invoice, of the amount disputed and the reasons for the dispute; (c) if Perfection and the Supplier are unable to resolve any disagreement between them regarding the amount disputed within 5 Business Days of the Supplier receiving Perfection's notice under clause 10.4(b), they must invoke the dispute resolution process under clause 23; (d) the parties must comply with their other obligations under this Purchase Order until the dispute is resolved; and (e) if the resolution of the dispute determines that: (i) Perfection must pay an amount to the Supplier, Perfection will pay that amount upon resolution of that dispute; or (ii) a lesser amount than the full amount of the invoice in question is payable by Perfection, the Supplier must promptly refund to Perfection the difference between the amount invoiced and that lesser amount.

10.5 No interest will be payable by Perfection in respect of any invoice rendered to Perfection by the Supplier under clause 10.1 which remains due and unpaid.

10.6 Perfection may reduce any payment due to the Supplier under these terms by any amount for which the Supplier is liable to Perfection, including costs, charges, damages and expenses. This does not limit Perfection's right to recover those amounts in other ways.

10.7 Unless otherwise agreed, any money payable to the Supplier will be paid in the currency set out in the Purchase Order.

10.8 If the Purchase Order involves the supply of Services on a cost plus or per hour basis Perfection has the right to conduct an audit of the basis of the Supplier's charges using the Supplier's records. This right continues for 12 months after Perfection pays the relevant invoice. The Supplier must give Perfection access to its records for this purpose and arrange to have records copied for Perfection if requested by Perfection.

11. Variation

11.1 Perfection may change these terms and conditions from time to time and will provide notice in writing to the Supplier. By entering into a Purchase Order after the date upon which the new terms and conditions become effective, the Supplier accepts and is bound by the changed terms and conditions for that Purchase Order and future Purchase Orders. If the Supplier does not accept the changes to the terms and conditions, the Supplier may give notice to Perfection that it does not wish to supply any further Goods and/or Services.

11.2 Perfection may at any time by notice in writing to the Supplier vary a Purchase Order. A notice may include a change of the Goods and/or Services the Supplier is supplying or a change to the Delivery Date or time for delivery or the Delivery Address.

11.3 If such variation causes an increase or decrease in the Price (excluding loss of profits) or a change to the required Delivery Date, the Supplier must notify Perfection's Personnel in writing within 5 Business Days of receipt of the variation.

11.4 The Supplier must not supply the Goods and/or Services as varied until a reasonable adjustment to the Price or required Delivery Date has been agreed in writing between the Supplier and Perfection.

12. Cancellation

12.1 Perfection may at any time cancel any Goods or Services covered by a Purchase Order which are yet to be delivered or provided. Upon receipt of a cancellation notice, the Supplier must cease to manufacture the Goods or provide the Services and mitigate the Supplier's costs. Perfection will pay any expenditure reasonably incurred prior to cancellation which is directly attributable to placing the Purchase Order and not otherwise recovered by the Supplier.

12.2 Upon payment made under clause 12.1, title in property, material, parts and/or incomplete Goods or Services will pass to Perfection and the Supplier must upon demand and at the Supplier's cost deliver to Perfection any such property, material, parts and/or incomplete Goods or Services.

13. Supplier's Responsibilities

13.1 It is an essential term of these terms and conditions that the Supplier complies with the provisions of the Australian Consumer Law. Without limiting that obligation in any way, the Supplier must comply (and ensure that any manufacturer or other supplier complies) with Section 102 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and Regulation 90 of the *Competition and Consumer Regulations 2010* (Cth), in relation to any warranty provided by the Supplier, any third party supplier, or the manufacturer of the Goods. To the extent permitted by law, the Supplier indemnifies, and keeps Perfection

indemnified against any loss, cost, penalty or claim made against Perfection that arises out of or relates to a breach of this clause by the Supplier.

13.2 The Supplier will: (a) at all times comply with all directions and applicable law, including but not limited to those directions and law relating to health, safety and environment which are relevant to any of the Goods and Services; and (b) not provide any Goods and Services which are intrinsically hazardous to life or harmful to the environment without appropriate arrangements being agreed with Perfection in advance in writing.

13.3 The Supplier will at all times be responsible for its Personnel and will ensure that they, when on Perfection's sites, are made aware of and comply with rules, procedures and requirements of that site (copies of which will be provided by the relevant site manager) and follow all reasonable and lawful directions of Perfection relating to the site. The Supplier and its Personnel will be required to complete a site induction before access to a site is provided. Perfection will have the right to refuse access to its site to any of the Supplier's Personnel who, in the reasonable opinion of Perfection, is not a fit and proper person to have access to the site, or who refuses to complete any site induction or comply with the site rules.

13.4 The Supplier must: (a) comply, and ensure that all of its Personnel comply with all laws that apply to the transport of goods by road including but not limited to mass, loading, dimension, fatigue management requirements and speed compliance; and (b) establish, implement and maintain appropriate policies, procedures and business practices to ensure its business practices comply with the law.

13.5 The Supplier must at its own cost if not agreed upon: (a) fumigate all Goods according to all Australian Quarantine and Inspection Service requirements prior to delivery to Perfection; (b) comply with all Australian Biosecurity Import system (BICON) conditions stipulated by the Department of Agriculture, Water and the Environment (Cth) from time to time; (c) obtain and lodge any import permits or phytosanitary certificates required to bring Goods into Australia; (d) arrange on-arrival post-entry quarantine for the Goods in Australia (if required); (e) arrange for testing and treatment of the Goods (if required); (f) arrange for any other actions required to be taken by any laws to permit the import of, and delivery to Perfection of, the Goods; and (h) deliver to Perfection all documentation in accordance with the *Biosecurity Act 2015* (Cth) for such Goods.

13.6 All shipping containers, shipping boxes, crates or other packing used by the Supplier in the delivery of Goods or the provision of Services must be marked in English and in accordance with Perfection's written instructions.

13.7 The Supplier must notify Perfection within 7 days of any actual or proposed change in: (a) the Supplier's address; (b) the trading name of the Supplier's business; (c) the person(s), the directors, the trustee or the partnership conducting the Supplier's business; (d) the Supplier's senior management team; (e) any machinery, production or inspection methods/techniques of the Supplier; or (f) the status, or details of, the Supplier's registration for GST purposes or Australian Business Number or Australian Company Number.

14. Modern Slavery

14.1 The Supplier acknowledges that Perfection has obligations to comply with Modern Slavery Laws and has corporate reporting requirements with regard to Modern Slavery Offences and represents and warrants to Perfection: (a) that no form of Modern Slavery Offence is used in the Supplier's business or by its Personnel; (b) that it will comply with all applicable employment and work health and safety laws; (c) that it will comply with all applicable statutory requirements relating to Modern Slavery Offences; (d) that it will comply with applicable Modern Slavery Offence reporting requirements; (e) that the Supplier has no knowledge of any Modern Slavery Offence currently occurring within its organisation or supply chain; and (f) that the Supplier takes and will continue to take reasonable steps to identify the risk of, and prevent the occurrence of, Modern Slavery Offences, within its organisation or supply chains.

14.2 The Supplier shall have and maintain its own policies and procedures that are intended to ensure compliance with the warranties contained in clause 14.1.

14.3 Without limiting clause 14.1, the Supplier represents and warrants to Perfection that in relation to any Services or Goods procured from, or subcontracted or outsourced to, third parties for the provision of the Services or Goods under these terms and conditions, the Supplier has taken, or will, prior to procuring, subcontracting or outsourcing any such Services or Goods from or to a third party, take, and will continue through to take all reasonable steps to confirm that such third party is not engaging in Modern Slavery Offences.

14.4 The Supplier will notify Perfection in writing as soon as practicable and no later than 2 Business Days upon becoming aware of any Modern Slavery Offence (or of any charges laid or orders made in relation to a Modern Slavery Offence) within its organisation or supply chain.

14.5 At the reasonable request of Perfection, it will confirm in writing that it has complied with its undertakings under this clause 14 and will provide any information reasonably requested by Perfection in support of such compliance.

14.6 If requested by Perfection, the Supplier will, subject to any existing confidentiality requirements and any relevant law: (a) take all reasonable steps to provide Perfection with any information, policies, reports or documents in relation to any Modern Slavery Offence or any risk of a Modern Slavery Offence within the Supplier's organisation or supply chain; and (b)

take all steps to remedy or remove any part of the Supplier's organisation or supply chain in which a Modern Slavery Offence has been committed (or any charges laid or orders made in relation to a Modern Slavery Offence).

14.7 The Supplier must ensure that all of its sub-supply agreements contain provisions substantially similar to this clause 14.

15. Ethical Sourcing

15.1 The Supplier agrees that it will at all times comply with the Perfection Ethical Sourcing Policy (**Perfection Ethical Sourcing Policy**) and can be found at www.perfection.com.au.

15.2 The Supplier agrees to comply with all laws and regulations of the jurisdictions in which the factories at which the Goods the subject of any Purchase Order are manufactured or where services are Supplied. Where Perfection has agreed to the Supplier using third party factories in relation to the manufacture or supply of the Goods (**Permitted Subcontractor**), the Supplier must ensure that such Permitted Subcontractor complies with all laws and regulations of the jurisdiction in which the factories are located (including those relating to labour, worker safety and protection of the environment).

15.3 The Supplier must have in place a compliance management system to: (a) ensure compliance with applicable laws and regulations; (b) ensure conformance with the Perfection Ethical Sourcing Policy; (c) identify and mitigate risks related to the Perfection Ethical Sourcing Policy; and (d) effect continual improvement.

15.4 Upon request by Perfection, the Supplier must disclose factory information in the form requested by Perfection relating to the factories at which it or its Permitted Subcontractors manufacture the Goods supplied under any Purchase Order.

15.5 The Supplier acknowledges and agrees that Perfection has developed the Perfection Ethical Sourcing Policy to measure compliance by suppliers and subcontractors with the requirements of the Perfection Ethical Sourcing Policy, and that Perfection may conduct audits in the manner set out in the Perfection Ethical Sourcing Policy and inspect the factories at which the Goods are manufactured. The Supplier agrees to co-operate with any audits of the factories at which Goods the subject of any Purchase Order are manufactured to assess compliance by the Supplier (or any Permitted Subcontractor) with the Perfection Ethical Sourcing Policy.

15.6 The Supplier acknowledges and agrees that any reasonable costs associated with a third party audit which requires the Supplier to demonstrate compliance with the Perfection Ethical Sourcing Policy will be met by the Supplier unless otherwise agreed to in writing.

15.7 Where the audit identifies deficiencies in the Supplier's (or Permitted Subcontractors) compliance with the Perfection Ethical Sourcing Policy, the Supplier must take such corrective steps (or ensure that they are taken by the Permitted Subcontractor) as required by Perfection and within the time frames required by Perfection.

15.8 Where there are critical breaches of the Perfection Ethical Sourcing Policy and/or if the Supplier fails to take the required corrective action or delays in implementing any corrective action, Perfection may do any or all of the following: (a) cancel any or all Purchase Orders in respect of any Goods which have not then been delivered; (b) reject any Goods that have been delivered but which have not yet been paid for; (c) reject and return any Goods that have been delivered and paid for but not yet sold by Perfection in its normal course of business and the Supplier will provide a full refund for any such Goods returned; and/or (d) cease doing all business with the Supplier.

16. Warranties

16.1 The Supplier warrants in respect of the Goods that they: (a) will be free from any defect in design, material, performance, workmanship and makeup; (b) are new and unused; (c) are fit for all the purposes for which goods of that kind are commonly supplied, fit for sale to the end customer (where applicable) and fit for any purpose held out by the Supplier or made known to the Supplier in writing at the time the Purchase Order is placed; (d) are in accordance with the relevant standards of Standards Australia; (e) will be labelled, marked and packaged in accordance with all applicable law; (f) are not be subject to any mortgage, charge, lien, encumbrance, retention of title or other security interest; (g) are safe, not a risk to human health and not emit or contain any contaminant or hazardous substance; (h) will meet the requirements of the Purchase Order, including any Specification; (i) include appropriate and correct warning and instructions; and (j) comply with any representations, descriptions, samples or other specifications provided by the Supplier in connection with the Goods, including as to quality, function, performance or design.

16.2 The Supplier warrants in respect of the Services that: (a) the Services and the results of the Services will be: (i) rendered in a proper and safe manner with the degree of professional expertise, due care and skill that can reasonably be expected of a professional service provider experienced in providing services in the nature of the Services; (ii) of high quality and workmanship and otherwise satisfactory; (iii) provided in a timely and expeditious way; (iv) provided in accordance with best industry practice; and (v) provided in accordance with the reasonable directions and requirements and to the reasonable satisfaction of Perfection; (b) any representations, whether oral or in writing, that the Supplier has made to Perfection as to the Supplier's qualifications, experience, capacity to provide the Services and any other relevant matter are true and complete; (c) the Supplier will supply all materials, equipment and machinery (as applicable) necessary for the provision of

the Services, and will ensure that all such materials, equipment and machinery are fit for their intended purpose; (d) the Supplier and each of its Personnel will not use any of Perfection's equipment unless Perfection specifically approves such use (which will be solely at Perfection's discretion); and (e) the Supplier, at the Supplier's own cost, will make good any errors, defects or omissions in the Services provided to Perfection.

16.3 The Supplier warrants to Perfection that: (a) the Supplier has and will maintain at all relevant times all consents, approvals, permits and licences which are required by law or are otherwise necessary for the manufacture, storage and supply (as applicable) of the Goods and performance of the Services; (b) any Intellectual Property Rights of any other person will not be infringed by the provision of the Services or the supply of the Goods by the Supplier and Perfection's use or on-sale of the Goods or Services will not infringe any Intellectual Property Rights or any other person; (c) the Supplier's performance of the terms and conditions, supply of the Goods and performance of the Services, will at all times comply with all applicable law; and (d) where applicable, the Goods are not a prohibited import as defined under the *Customs Act 1901* (Cth) and that such Goods may be legally imported into Australia.

16.4 The warranties provided in clauses 16.1, 16.2 and 16.3 are in addition to any obligations that the Supplier owes to Perfection that are implied by law, trade, usage or otherwise.

17. Insurance

17.1 The Supplier must take out and maintain with a reputable insurer: (a) transit insurance for the Goods up to the time they are delivered and installed (if required) for an amount not less than their full replacement value; (b) a comprehensive public and products liability policy in relation to all supplies of Goods to Perfection to cover all sums which the Supplier may become legally liable to pay as compensation with a limit of liability not less than \$20 million in respect of any one claim, and such policy must include a principal's indemnity clause; (c) if the Supplier provides Services, professional indemnity insurance for an amount not less than \$10 million or such other amount required by Perfection in writing for any 12 month period; (d) in respect of any vehicles brought onto Perfection's sites, third party property damage motor vehicle insurance for an amount not less than \$20 million or such other amount required by Perfection in writing; (e) insurance in respect of all claims and liabilities arising, whether at common law or under statute relating to workers compensation or employer's liability, from any accident or injury to any person employed by the Supplier in connection with this Purchase Order and the Supplier must ensure that all sub-contractors are similarly insured in respect of their employees. This insurance must comply with the laws of the relevant jurisdiction in which the Services are to be carried out; (f) a policy of insurance against any and all liability, loss and damage of any kind whatsoever (including consequential loss) arising directly or indirectly from the use, non-use, failure, breakage or any other act, omission or matter arising in respect of any plant, equipment, tools, appliances or other property owned, rented or hired by the Supplier to give effect to the supply of Goods and/or Services; and (g) other insurances required by law or reasonably required by Perfection.

17.2 The Supplier must notify Perfection immediately of any cancellation of a relevant insurance policy and of any change to the policy which affects Perfection's interests.

17.3 If any event occurs which may give rise to a claim involving Perfection under any policy of insurance to be taken out by the Supplier under this clause then the Supplier must: (a) notify Perfection within 14 days of that event; and (b) ensure that Perfection is kept fully informed of any subsequent actions and developments concerning the relevant claim.

17.4 At Perfection's request, the Supplier must produce evidence that the Supplier is maintaining the insurances required by this clause including the provision of certificates of currency detailing the policy number, expiry date and the amount of insurance cover.

17.5 Perfection may take out and maintain any policy of insurance required by this clause if the Supplier fails to do so. The Supplier agrees to reimburse Perfection for any expenses Perfection incur in taking out and maintaining any policy of insurance under this clause.

18. Liability and indemnities

18.1 If, during the Warranty Period, Perfection finds any of the Goods to be Defective Goods and/or any of the Services or their results to be Defective Services, Perfection may, at Perfection's option: (a) return the Defective Goods to the Supplier; (b) reject the Defective Services by notifying the Supplier that Perfection is rejecting them; (c) repair or make good the Defective Goods; or (d) re-perform or make good the Defective Services.

18.2 At Perfection's option and request, during the Warranty Period the Supplier agrees to, at the Supplier's cost: (a) repair or, at Perfection's option, replace any Defective Goods that Perfection returns to the Supplier; (b) re-perform or make good any Defective Services that Perfection rejects; or (c) reimburse Perfection for any expenses Perfection incurs in making good any Defective Goods and/or Defective Services including costs of repair and transport costs of return.

18.3 Perfection may exercise Perfection's rights under clause 18.1 or reject and return to the Supplier (in the case of Goods) any Goods which do not comply with this Purchase Order even if Perfection has accepted or paid for those Goods.

18.4 Any: (a) repairs or replacement goods provided by the Supplier under this clause will be subject to the same warranty as the original Goods, from the date of repair or replacement; and/or (b) Defective Services that are re-performed

or made good by the Supplier under this clause will be subject to the same warranty as the original Services, from the date of re-performance or the date on which the Defective Services were made good.

18.5 The Supplier is liable for all reasonable loss and damages incurred by Perfection due to the rejection of the Goods or Services. Title and risk in the rejected Goods immediately re-vests in the Supplier. The Supplier must, at its cost, remove from the rejected Goods and Services any of Perfection's Intellectual Property Rights (including names, logos, etc) or any other distinguishing features such as name or symbols.

18.6 The remedies provided in this clause do not exclude any other remedies of Perfection provided by law.

18.7 Perfection will not be liable to the Supplier (whether in tort or in contract) for or in respect of any loss or damage of any kind whatsoever arising directly or indirectly from any act or omission on Perfection's part or on the part of any of Perfection's Personnel in connection with or relating to this Purchase Order. However, the Supplier will not be liable for any defect or fault in the Goods or Services that is caused by Perfection's negligence or the negligence of Perfection's Personnel.

18.8 The Supplier acknowledges that if the Supplier enters Perfection's sites, the Supplier will do so at the Supplier's own risk. The Supplier must ensure that the Supplier's Personnel are also aware that they enter Perfection's sites at their own risk.

18.9 The Supplier will be liable for and will indemnify Perfection and keep Perfection indemnified from and against any liability and/or any loss or damage of any kind whatsoever, arising directly or indirectly from: (a) any breach by it of any warranty or any of the terms and conditions of these terms and conditions and a relevant Purchase Order by the Supplier or its Personnel; (b) the illness, injury or death of any of the Supplier's Personnel arising out of or in connection with this Purchase Order; (c) any loss or damage arising out of, or in connection with, any personal injury, illness or death to any person or damage to any property or any other loss or damage of any kind whatsoever caused or contributed to by: (i) the Goods and/or Services; and/or (ii) the entry onto, and the activities undertaken on and in, Perfection's sites by the Supplier and/or the Supplier's Personnel; (d) any negligence or wilful act or omission by the Supplier and/or any of the Supplier's Personnel in connection with these terms and conditions and a relevant Purchase Order; (e) any claim made against Perfection by any of the Supplier's Personnel in respect of any relevant legislation concerning income tax, workers compensation, annual leave, long service leave, superannuation or any applicable award, determination or agreement of a competent industrial tribunal; (f) any penalty imposed for breach of an applicable law in connection with the supply of the Goods and/or performance of the Services by the Supplier; (g) any claim that the Goods, the Services or the results of the Services, anything the Supplier does in supplying Perfection with the Goods and/or the Services, or Perfection's use of the Goods or the results of the Services infringes or allegedly infringes the Intellectual Property Rights of any person; or (h) the Goods or Services or their use.

18.10 Every exemption, limitation, defence, immunity or other benefit contained in these terms and conditions and a relevant Purchase Order to which Perfection is entitled will also be held by Perfection for the benefit of, and will extend to protect, each of Perfection's Personnel (excluding the Supplier and its Personnel) and Perfection's Related Entities and their Personnel (excluding the Supplier and its Personnel).

18.11 Where Perfection on sells the Goods to a consumer, the Supplier will be liable for all claims, costs, losses or damages that Perfection may be responsible for to the consumer under the Australian Consumer Law in respect of those Goods.

19. Taxes

19.1 Subject to clause 19.2, the Supplier is responsible for any Taxes levied on, in respect of, or in relation to, the Goods and/or Services (including without limitation any income tax) and must provide on demand documentary evidence of the payment of any such Taxes.

19.2 The Supplier must either satisfy Perfection that payments made by Perfection to the Supplier for Services are exempt from the prescribed Taxes or provide duly completed deduction forms when submitting an invoice to Perfection.

19.3 Any reference in this clause 19 to a term defined or used in the GST Law is, unless the context indicates otherwise, is a reference to that term as defined in the GST Law.

19.4 Unless expressly stated otherwise, all amounts stated to be payable by Perfection under any Purchase Order are exclusive of GST.

19.5 If GST is imposed on any supply made under or in accordance with any Purchase Order, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with the Purchase Order, subject to the provision of a tax invoice by the supplier to the recipient.

20. Assignment and sub-contracting

20.1 Subject to clause 20.2, neither Perfection nor the Supplier may assign its rights and/or obligations under these terms and conditions and / or a relevant Purchase Order without the prior written consent of the other party (which may not be unreasonably withheld).

20.2 Perfection may assign any or all of Perfection's obligations or rights under this Purchase Order at any time to any Related Entity.

20.3 The Supplier may not sub-contract the Supplier's obligations under this Purchase Order unless Perfection consents to such arrangement.

21. Force majeure

21.1 If the occurrence of a Force Majeure Event prevents or is likely to prevent the supply of Goods or Services by the Delivery Date, the Supplier must immediately give Perfection written notice of the Force Majeure Event. Upon receipt of such notice, Perfection may: (a) request the Supplier to supply the Goods or Services by a mutually agreed alternative delivery date; or (b) cancel the Purchase Order.

21.2 Each party must bear their own costs and no party will have any claim for compensation against the other arising from the cancellation of the Purchase Order pursuant to this clause.

22. Expiry and Termination

22.1 In addition to any other right of Perfection to cancel or terminate a Purchase Order in accordance with these terms and conditions, Perfection may also terminate these terms and conditions or a Purchase Order by giving the Supplier 30 days' written notice or may immediately terminate this Purchase Order by giving written notice to the Supplier if the Supplier: (a) breaches these terms and conditions; (b) uses, publishes or causes to be published Perfection logos without consent in writing of Perfection to do so; (c) fails to comply with a direction from Perfection within the time specified in that direction or if no time is specified within a reasonable time; (d) engages in any activity which might conflict with Perfection's interest under this Purchase Order or which might be detrimental to Perfection's reputation; (e) is found to have given any bribe or gratuity, bonus, or discount of any sort to any officer, employee or agent of Perfection; (f) is the subject of an Insolvency Event; (g) fails to replace defective Goods or re-perform the Services in accordance with these terms and conditions; (h) ceases to carry on business; (i) disposes of, or threatens to dispose of, the whole or any material part of its assets, operations or business other than in the ordinary course of business; or (j) is the subject of a change in the effective control of the Supplier.

22.2 If Perfection terminates these terms and conditions or a Purchase Order pursuant to clause 22.1, the Supplier shall be indebted to Perfection for the loss, cost and damage incurred by Perfection as a consequence of the breach and the termination.

22.3 On termination of these terms and conditions or a Purchase Order: (a) the Supplier must stop all work on the Purchase Order and cause its suppliers and subcontractors to stop work; (b) Perfection must, within 15 Business Days of the date of the notice of termination, pay the Supplier the amount due to the Supplier for the Goods supplied and the Services performed in the relevant period up to the date of termination less the likely amount of any damages which may be due pursuant to clause 22.2; and (c) except as set out in clause 22.3(b), the Supplier is not entitled to any other payment, including for any loss of profit or other consequential costs, losses or damage.

22.4 Perfection's rights under this clause 22 are without prejudice to any right of action or remedy which has accrued or may accrue in favour of Perfection.

23. Dispute Resolution

23.1 If any dispute arises in relation to these terms and conditions or a relevant Purchase Order, including in relation to their interpretation or any aspect of their performance, no party may commence any form of legal proceedings, unless and until the parties have complied with the procedures set out in this clause 23, except where a party seeks urgent interlocutory relief or the dispute relates to compliance with this clause 23.

23.2 If any dispute arises in relation to these terms and conditions, either party may give written notice (**Dispute Notice**) to the other party claiming that a dispute has arisen, specifying the nature of the dispute, and request that a meeting be held between one duly authorised representative of each party within 10 Business Days after the Dispute Notice is issued.

23.3 If a party receives a Dispute Notice from the other party in accordance with clause 23.2, that party, and the party that gave the Dispute Notice, must cause a duly authorised representative (with full authority to resolve the dispute) to attend the meeting referred to in the Dispute Notice, which may be held by contemporaneous linking by telephone or live audio visual transmission (or similar).

23.4 If the dispute is resolved under clause 23.3: (a) the parties must, as soon as possible, execute a statement setting out the terms of the agreement reached; and (b) each party must do anything (including execute any document) reasonably required by the other party to give effect to the agreement.

23.5 If the parties have not resolved the dispute within 20 Business Days of the meeting referred to in clause 23.3 (or such further period as agreed in writing by them), the parties must mediate the dispute, which must be conducted in New South Wales, Australia (or as agreed in writing between the parties), in accordance with the ACICA Mediation Rules (in operation from time to time) by the ACICA, except where they conflict with this clause 23 in which case this clause 23 will prevail.

- 23.6** If the parties are required by clause 23.4 to mediate the dispute, ACICA will appoint the mediator unless the parties agree on a mediator (**Mediator**). The role of the Mediator is to assist in negotiating a resolution of the dispute. The Mediator may not make a decision that is binding unless the disputing parties otherwise agree in writing. The costs of the Mediator must be paid equally by the disputing parties but otherwise each disputing party must pay their own costs of the mediation.
- 23.7** If the dispute is not resolved within 20 Business Days after referral to the Mediator, any disputing party may take legal proceedings to resolve the dispute.
- 24. Intellectual Property**
- 24.1** All Intellectual Property Rights held by a party prior to entry into a Purchase Order, or developed by a party independently of a Purchase Order, remains the property of that party.
- 24.2** Subject to clause 24.1, any Intellectual Property Rights created by the Supplier in connection with the supply of the Goods, or performance of the Services, belong to Perfection. The Supplier hereby assigns (or will procure such assignment) to Perfection of the Supplier's entire right, title and interest in any such Intellectual Property Rights.
- 25. Confidentiality and announcements**
- 25.1** The Supplier must not make any public announcement or representation to any third party relating to a Purchase Order or its terms (including the fact that the parties have entered into a Purchase Order) unless Perfection has consented to the announcement or representation, including the timing, form and content of that disclosure, or unless the announcement or representation would be permitted under clauses 25.2 or 25.3.
- 25.2** The Supplier agrees to keep confidential all of Perfection's information concerning or arising from the performance of a Purchase Order or otherwise provided by Perfection to the Supplier. This clause does not apply to information which is lawfully obtained from a third party who does not owe an obligation of confidentiality to Perfection, is public knowledge, is already known or is otherwise independently developed by the Supplier.
- 25.3** The Supplier will not advertise itself as supplying Goods and Services to Perfection without Perfection's prior written consent.
- 25.4** The obligations of this clause 25 will remain in force notwithstanding completion, cancellation, or termination of a Purchase Order.
- 26. Other matters**
- 26.1** Any of Perfection's rights under these terms and conditions can only be waived by Perfection in writing. The waiver by Perfection of any breach by the Supplier of any term of these terms and conditions or a Purchase Order does not prevent the subsequent enforcement of that term and is not deemed a waiver of any other or subsequent breach.
- 26.2** Any consent required under these terms to be provided by Perfection is ineffective unless it is provided in writing.
- 26.3** A notice to be given by a party to another party under these terms and conditions must be in writing and sent to the address previously nominated by that party. All notices between Perfection and the Supplier are deemed to have been duly delivered if mailed in the ordinary course of post or sent by email to the postal address or email address of Perfection or the Supplier respectively previously nominated by that party. Notices are deemed to have been delivered two (2) days after mailing, or upon completion of an email.
- 26.4** Subject to clause 11 above, a Purchase Order may not be amended, modified or varied except in writing signed by both parties.
- 26.5** In the event that the whole or any part or parts of any provisions in a Purchase Order (including these terms and conditions) are held to be void or unenforceable in whole or in part such provision or part thereof will to that extent be severed from a Purchase Order but the validity and enforceability of the remainder of that Purchase Order will not be affected.
- 26.6** Each party must bear its own costs for the preparation and execution of a Purchase Order.
- 26.7** The Supplier acknowledges that it is not the legal representative, agent, joint venturer or partner of Perfection for any purpose and it has no right or authority to assume or create any obligations of any kind or to make any representations or warranties, whether express or implied, for or on behalf of Perfection or to bind Perfection in any respect. Nothing in these terms and conditions creates any fiduciary relationship, nor any partnership, joint venture or agency relationship between Perfection and the Supplier.
- 27. Governing law**
- 27.1** These terms and conditions and any Purchase Order are governed by the laws of New South Wales, Australia and the Supplier and Perfection agree to submit to the non-exclusive jurisdiction of the courts of that state and the courts of appeal from them.