

Urban Earthworks Pty Ltd – Terms & Conditions of Trade

1.	Definitions		reasonable value of authorised variations and the value of any Materials delivered to the Worksite but not yet installed; or		Works etc) is given in good faith to the Client, or the Client's agent and is based on UEPL's own knowledge and experience and shall be accepted without liability on the part of UEPL. Where such advice or recommendations are not acted upon then UEPL shall require the Client or their agent to authorise commencement of the Works in writing. UEPL shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Works
1.1	"Client" means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting UEPL to provide the Works as specified in any proposal, quotation, order, invoice or other documentation; and:		(b) the Client's address or address for notices; or		The Client acknowledges and agrees that it is its responsibility to organise and be liable for all costs associated with protecting the concrete and shall take all reasonable precautions to protect against destruction or damage by way of vandalism. In the event that the concrete is destroyed or damaged due to vandalism then the cost of repair or replacement shall be borne by the Client.
	(a) if there is more than one Client, is a reference to each Client jointly and severally; and		(c) the date specified on any invoice or other form as being the date for payment; or	9.4	UEPL shall not be liable for any defect in the Works if the Client does not follow UEPL's recommendations, including to:
	(b) if the Client is a partnership, it shall bind each partner jointly and severally; and		(d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by UEPL.		(a) water the concrete periodically to limit the risk of possible cracking due to weather conditions;
	(c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and	5.6	Payment may be made by cash, cheque, bank cheque, electronic/on-line banking or by any other method as agreed to between the Client and UEPL.		(b) ensure that no foot traffic and/or any vehicles are permitted on the concrete for a minimum of forty-eight (48) hours but preferably seven (7) days; or
	(d) includes the Client's executors, administrators, successors and permitted assigns.	5.7	UEPL may, in its discretion allocate any payment received from the Client towards any invoice that UEPL determines and may do so at the time of receipt or at any time afterwards. On any default by the Client UEPL may re-allocate any payments previously received and allocated. In the absence of any payment allocation by UEPL, payment will be deemed to be allocated in such manner as preserves the maximum value of UEPL's Purchase Money Security Interest (as defined in the PPSA) in the Materials.	9.5	(c) ensure that no heavy furniture is placed on the concreted area for a minimum of twenty-four (24) hours.
1.2	"Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, Contracts, client information (including but not limited to, "Personal Information" such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.	5.8	The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by UEPL nor to withhold payment of any invoice because part of that invoice is in dispute. Once in receipt of an invoice for payment, if any part of the invoice is in dispute, then the Client must notify UEPL in writing within three (3) business days. The invoice shall remain due and payable for the full amount, until such time as UEPL investigates the disputed claim, no credit shall be passed for refund until the review is completed. Failure to make payment may result in UEPL placing the Client's account into default and subject to default interest in accordance with clause 20.1.	9.6	Measurement of Concreting Works At the completion of the Works the Client or the representative of the Client shall be in attendance and the Works shall then be duly measured. In the absence either the Client or their representative UEPL shall carry out the necessary measurements and forward to the Client their calculations. If the Client does not object to the calculations within seven (7) days of receipt of the same, then it shall be deemed acceptance of the same and the Works completed.
1.3	"Contract" means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.		Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to UEPL an amount equal to any GST UEPL must pay for any supply by UEPL under this or any other Contract for the sale of the Materials. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.	10.	Timber
1.4	"Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website and can be accessed either by the web server or the client's computer. If the Client does not wish to allow Cookies to operate in the background when using UEPL's website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to making enquiries via the website.	5.9		10.1	Timber is a hygroscopic material subject to expansion and contraction, therefore UEPL will accept no responsibility for gaps that may appear in the timber during prolonged dry periods.
1.5	"GST" means Goods and Services Tax as defined within the 'A New Tax System (Goods and Services Tax) Act 1999' (Cth).				
1.6	"Intended Use" means a building product and the use thereof, for which the building product is intended to be, or is reasonably likely to be, associated with a building.				
1.7	"Non-Conforming Building Product" means building products that are regarded as Non-Conforming for an Intended Use if, when associated with a building:	6.	Provision of the Works	11.	Surplus Materials
	(a) the product is not, or will not be, safe; or	6.1	Subject to clause 6.2 it is UEPL's responsibility to ensure that the Works start as soon as it is reasonably possible.	11.1	Unless otherwise stated elsewhere in this Contract:
	(b) does not, or will not, comply with the relevant regulatory provisions; or	6.2	The Works' commencement date will be put back and/or the completion date extended by whatever time is reasonable in the event that UEPL claims an extension of time (by giving the Client written notice) where completion is delayed by an event beyond UEPL's control, including but not limited to any failure by the Client to:		(a) demolished materials remain the Client's property; and
1.8	"Price" means the Price payable (plus any GST where applicable) for the Works as agreed between UEPL and the Client in accordance with clause 5 below.		(a) make a selection; or		(b) Materials which UEPL brings to the Worksite which are surplus remain the property of UEPL
1.9	"UEPL" means Urban Earthworks Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Urban Earthworks Pty Ltd.		(b) have the Worksite ready for the Works; or	12.	Worksite Access and Condition
1.10	"Works" means all Works (including consultation, manufacturing and/or installation services) or Materials supplied by UEPL to the Client at the Client's request from time to time (where the context so permits the terms 'Works' or 'Materials' shall be interchangeable for the other).	6.3	(c) notify UEPL that the Worksite is ready.	12.1	It is the intention of UEPL and agreed by the Client that the Client shall ensure that UEPL has clear and free access to the Worksite at all times to enable them to undertake the Works (including carrying out Worksite inspections, gain signatures for required documents, and for the delivery and installation of the Materials). UEPL shall not be liable for any loss or damage to the Worksite (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of UEPL.
1.11	"Worksite" means the address nominated by the Client to which the Materials/Works are to be supplied by UEPL.	6.4	UEPL may deliver the Works by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.	12.2	It shall be the Client's responsibility to:
2.	Acceptance		Any time specified by UEPL for delivery of the Works is an estimate only and UEPL will not be liable for any loss or damage incurred by the Client as a result of delivery being late. However, both parties agree that they shall make every endeavour to enable the Works to be supplied at the time and place as was arranged between both parties. In the event that UEPL is unable to supply the Works as agreed solely due to any action or inaction of the Client, then UEPL shall be entitled to charge a reasonable fee for re-supplying the Works at a later time and date, and/or for storage of the Materials.		(a) (where applicable) ensure that, prior to commencement of the Works that:
2.1	The parties acknowledge and agree that:	7.	Risk		(i) all gas and electricity are cancelled and disconnected (from the main supply at the street); and
	(a) they have read and understood the terms and conditions contained in this Contract; and	7.1	If UEPL retains ownership of the Materials under clause 15 then:		(ii) a safety fence is erected around the perimeter of the Worksite to ensure public safety
2.2	(b) the parties are taken to have exclusively accepted and are immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of the Works.		(a) where UEPL is supplying Materials only, all risk for the Materials shall immediately pass to the Client on delivery and the Client must insure the Materials before delivery. The cost of delivery will be payable by the Client in accordance with the quotation provided by UEPL to the Client, or as otherwise notified to the Client prior to the placement of an order for the Materials. Delivery of the Materials shall be deemed to have taken place immediately at the time that either:	12.3	The Client agrees to be present at the Worksite when and as reasonably requested by UEPL and its employees, contractors and/or agents.
2.3	These terms and conditions may be meant to read in conjunction with UEPL's Hire Form, and where the context so permits the terms 'Works' or 'Materials' shall include any supply of Equipment, as defined therein.		(i) the Client or the Client's nominated carrier takes possession of the Materials at UEPL's address; or	12.4	Where UEPL requires that Materials, fittings and appliances, or plant and tools required for the Works be stored at the Worksite, the Client shall supply UEPL a safe area for storage and shall take all reasonable efforts to protect all items from possible destruction, theft or damage. In the event that any of the stored items are destroyed, stolen or damaged, then the cost of repair or replacement shall be the Client's responsibility.
2.4	In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.		(ii) the Materials are delivered by UEPL or UEPL's nominated carrier to the Client's nominated delivery address (even if the Client is not present at the address).	12.5	Worksite Inductions
2.5	Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.		(b) where UEPL is to both supply and install Materials then UEPL shall maintain a Contract works insurance policy until the Works are completed. Upon completion of the Works all risk for the Works shall immediately pass to the Client.		(a) in the event the Client requires an employee or sub-contractor of UEPL to undertake a worksite induction during working hours, the Client will be liable to pay the hourly charges for that period. If any induction needs to be undertaken prior to the commencement date then the Client shall be liable to pay UEPL's standard (and/or overtime, if applicable) hourly labour rate; or
2.6	The Client acknowledges that the supply of Works on credit shall not take effect until the Client has completed a credit application with UEPL and it has been approved with a credit limit established for the account. In the event that the supply of Works requested exceeds the Client's credit limit and/or the account exceeds the payment terms, UEPL reserves the right to refuse delivery.	7.2	Notwithstanding the provisions of clause 7.1 if the Client specifically requests UEPL to leave Materials outside UEPL's premises for collection or to deliver the Materials to an unattended location then such Materials shall always be left at sole risk of the Client and it shall be the Client's responsibility to ensure the Materials are insured adequately or at all. In the event that such Materials are lost, damaged or destroyed then replacement of the Materials shall be at the Client's expense.		(b) where UEPL is in control of the Worksite, the Client and/or the Client's third-party contractors must initially carry out UEPL's Health & Safety induction course before access to the Worksite will be granted. Inspection of the Worksite during the course of the Works will be by appointment only and unless otherwise agreed, in such an event the Client and/or third party acting on behalf of the Client must at all times be accompanied by UEPL.
	Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Communications Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.	7.3	UEPL shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client. In the event that any of this information provided by the Client and/or marking out of the proposed area by the Client is inaccurate, UEPL accepts no responsibility for any loss, damages, or costs however resulting from these inaccuracies where installation decisions need to be made by UEPL in the Client's absence because the Client has failed to comply with this clause.	13.	Underground Locations
3.	Errors and Omissions	7.4	The Client acknowledges and accepts that Materials (including, but not limited to, timber, concrete, etc.) supplied may:	13.1	Prior to UEPL commencing any work the Client must advise UEPL of the precise location of all underground services on the Worksite and clearly mark the same. The underground mains and services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on the Worksite.
3.1	The Client acknowledges and accepts that UEPL shall, without prejudice, accept no liability for any alleged or actual error(s) and/or omission(s):		(a) exhibit variations in shade tone, colour, texture, markings, veining, surface and finish, and contain natural fissures, occlusions, and indentations. UEPL will make every effort to match batches/samples of the Materials supplied in order to minimise such variations, but shall not be liable in any way whatsoever where such variations occur;	13.2	Whilst UEPL will take all care to avoid damage to any underground services the Client agrees to indemnify UEPL in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 13.1.
3.2	(a) resulting from the Client's mistake made by UEPL in the information and/or administration of this Contract; and/or		(b) fade or change colour over time;	14.	Compliance with Laws
	(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by UEPL in respect of the Works.	7.5	(c) expand, contract or distort as a result of exposure to heat, cold, weather; or	14.1	The Client and UEPL shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Works, including any work health and safety laws (WHs) relating or any other relevant safety standards or legislation pertaining to the Works.
	In circumstances where the Client is required to place an order for Materials, in writing, or otherwise as permitted by these terms and conditions, the Client is responsible for supplying correct order information such as, without limitation, measurements and quantity, when placing an order for Materials (whether they are made to order Materials or not) ("Client Error"). The Client must pay for all Materials it orders from UEPL notwithstanding that such Materials suffer from a Client Error and notwithstanding that the Client has not taken or refuses to take delivery of such Materials. UEPL is entitled to, at its absolute discretion to waive its right under this sub-clause in relation to Client Errors.		(d) mark or stain if exposed to certain substances; and	14.2	Both parties acknowledge and agree:
4.	Change in Control		(e) be damaged or disfigured by impact or scratching.		(a) to comply with the National Construction Code of Australia (NCC) and the Development Act 1993 (SA), in respect of all workmanship and building products to be supplied during the course of the Works; and
4.1	The Client shall give UEPL not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, change of trustees, or business practice). The Client shall be liable for any loss incurred by UEPL as a result of the Client's failure to comply with this clause.		The Client acknowledges and agrees that, under no circumstances, will UEPL handle removal of asbestos product. In the event asbestos (or other hazardous material) is discovered at the Worksite:	14.3	(b) that Works will be provided in accordance with any current relevant Australian/New Zealand Standards applicable.
			(a) UEPL shall suspend the Works; and		Where the Client has supplied products for UEPL to complete the Works, the Client acknowledges that it accepts responsibility for the suitability of purpose and use for their products and the Intended Use and any faults inherent in those products. However, if in UEPL's opinion, it is believed that the materials supplied are Non-Conforming products and will not conform with state and/or territory regulations, then UEPL shall be entitled, without prejudice, to halt the Works until the appropriate conforming products are sourced and all costs associated with such a change to the plans and design will be invoiced in accordance with clause 5.2.
5.	Price and Payment	8.	(b) the Client shall be fully responsible for the resolution of any resulting problems; and	14.4	The Client shall:
5.1	At UEPL's sole discretion, the Price shall be either:	8.1	(c) any additional cost incurred by UEPL shall be added to the Price under clause 5.2.		(a) be liable for any costs incurred by UEPL due to the Client's failure to comply with clause 14.1; and
	(a) as indicated on invoices provided by UEPL to the Client in respect of Works performed or upon placement of an order for the Materials; or	8.2	Fencing Risk		(b) obtain (at the expense of the Client) all licenses and approvals that may be required for the Works
	(b) the Price as at the date of delivery of the Works according to UEPL's current price list, as previously disclosed to the Client upon the Client's placement of an order for Materials; or		The Client must be at the Worksite to supervise the marking out of the fence line, placement of boundary pegs and during the installation of the fence. If the Client fails to comply with this clause then UEPL accepts no responsibility for installation decisions that need to be made by UEPL in the Client's absence.	15.	Title
	(c) UEPL's quoted Price (subject to clause 5.2) which shall be binding upon UEPL provided that the Client shall accept UEPL's quotation in writing within thirty (30) days.	8.3	The Client acknowledges and agrees that it is its responsibility to remove any existing fence (including existing footings), trees, vines and shrubs to allow UEPL clear access along the proposed fence line prior to commencement of work by UEPL unless otherwise agreed in writing between UEPL and the Client.	15.1	UEPL and the Client agree that ownership of the Materials shall not pass until:
5.2	UEPL reserves the right to change the Price:		Whilst UEPL will take all due care during installation UEPL will not accept any responsibility for tiles or pavers damaged during installation unless due to UEPL's negligence.		(a) the Client has paid UEPL all amounts owing to UEPL; and
	(a) if a variation to the Materials which are to be supplied is requested; or	8.4	Where fencing is installed on a retaining wall UEPL shall not be liable for any movement in the fence due to consolidation, or the movement of soil or any other component of the retaining wall.	15.2	(b) the Client has met all of its other obligations to UEPL.
	(b) if a variation to the Works originally scheduled (including any applicable plans or specifications) is requested; or	8.5	UEPL shall not be responsible for digging land out under fence lines nor removal of soil from the Worksite.		Receipt by UEPL of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised. It is further agreed that until ownership of the Materials passes to the Client in accordance with clause 15.1:
	(c) where additional Works are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, poor weather, limitations to accessing the Worksite, obscured building/Worksite defects which require remedial work, safety considerations/health hazards (such as the discovery of asbestos), availability of Materials, hard rock barriers below the surface, iron reinforcing rods in concrete, prerequisite work by any third party not being completed or hidden pipes and/or wiring, etc.) which are only discovered on commencement of the Works; or	8.6	UEPL reserves the right to touch-up all products supplied and installed at the Worksite to rectify minor blemishes or damage to paintwork.	15.3	(a) the Client is only a bailee of the Materials and unless the Materials have become fixtures must return the Materials to UEPL on request;
5.3	(d) in the event of increases to UEPL in the cost of labour or Materials which are beyond UEPL's control.	9.	Concreting Risk		(b) the Client holds the benefit of the Client's insurance of the Materials on trust for UEPL, and must pay UEPL the proceeds of any insurance in the event of the Materials being lost, damaged or destroyed;
	Variations will be charged for on the basis of UEPL's quotation, and will be detailed in writing, and shown as variations on UEPL's invoice. The Client shall be required to respond to any variation submitted by UEPL within ten (10) working days. Failure to do so will entitle UEPL to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.	9.1	Detailed drawings of any services that will be embedded in the concrete are to be provided to UEPL prior to commencement of any Works. Whilst all due care will be taken no liability will be accepted by UEPL for damage to the services or any other element embedded in the concrete.		(c) the production of these terms and conditions by UEPL shall be sufficient evidence of UEPL's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with UEPL to make further enquiries;
5.4	At UEPL's sole discretion, a reasonable non-refundable ten percent (10%) deposit may be required upon placement of an order for Materials, in accordance with any quotation provided by UEPL or as notified to the Client prior to the placement of an order for Materials. A further thirty percent (30%) will be due on commencement of the Works and delivery of the Materials with the balance due and payable on completion of the Works.	9.2	UEPL gives no guarantee (expressed or implied) as to the length of time the curing process will take and/or against cracking of concrete that may occur naturally in the Works such as:		(d) the Client must not sell, dispose, or otherwise part with possession of the Materials other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Materials then the Client must hold the proceeds of any such act on trust for UEPL and must pay or deliver the proceeds to UEPL on demand;
5.5	Time for payment for the Works being of the essence, the Price will be payable by the Client on the date/s determined by UEPL, which may be:		(a) hairline cracking of paving and grout; or		
	(a) by way of progress payment with UEPL's specified progress payment schedule. Such progress payment claims may include the	9.3	(b) damage caused by contact with chemicals, solvents, oils or any other substances; or		
			(c) the affects by elements such as heat exposure or wet weather conditions that prolong the curing process.		

Please note that a larger print version of these terms and conditions is available from UEPL on request.

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	(e)	the Client should not convert or process the Materials or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of UEPL and must sell, dispose of or return the resulting product to UEPL as it so directs;	18.12				(b)	name of the credit provider and that UEPL is a current credit provider to the Client;
	(f)	unless the Materials have become fixtures the Client irrevocably authorises UEPL to enter any premises where UEPL believes the Materials are kept and recover possession of the Materials;		19.			(c)	whether the credit provider is a licensee;
	(g)	UEPL may recover possession of any Materials in transit whether or not delivery has occurred;		19.1			(d)	type of consumer credit;
	(h)	the Client shall not charge or grant an encumbrance over the Materials nor grant nor otherwise give away any interest in the Materials while they remain the property of UEPL; and					(e)	details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
	(i)	UEPL may commence proceedings to recover the Price of the Materials sold notwithstanding that ownership of the Materials has not passed to the Client.	19.2				(f)	advice of consumer credit defaults (provided UEPL is a member of an approved OAIC External Disputes Resolution Scheme), overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and UEPL has been paid or otherwise discharged and all details surrounding that discharge(e.g. dates of payments);
16.	Personal Property Securities Act 2009 ("PPSA")							
16.1	In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.							
16.2	Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Materials and/or collateral (account) – being a monetary obligation of the Client to UEPL for Works – that have previously been supplied and that will be supplied in the future by UEPL to the Client. The Client undertakes to:							
16.3	(a)	promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which UEPL may reasonably require to:	20.1				(g)	information that, in the opinion of UEPL, the Client has committed a serious credit infringement;
	(i)	register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;	20.2				(h)	advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
	(ii)	register any other document required to be registered by the PPSA; or					The Client shall have the right to request (by e-mail) from UEPL:	
	(iii)	correct a defect in a statement referred to in clause 16.3(a)(i) or 16.3(a)(ii);					(a)	a copy of the Personal Information about the Client retained by UEPL and the right to request that UEPL correct any incorrect Personal Information; and
	(b)	indemnify, and upon demand reimburse, UEPL for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Materials charged thereby;	20.3				(b)	that UEPL does not disclose any Personal Information about the Client for the purpose of direct marketing.
	(c)	not register a financing change statement in respect of a security interest without the prior written consent of UEPL;					UEPL will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.	
	(d)	not register, or permit to be registered, a financing statement or a financing change statement in relation to the Materials and/or collateral (account) in favour of a third party without the prior written consent of UEPL;	20.4				The Client may make a privacy complaint by contacting UEPL via e-mail. UEPL will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au .	
	(e)	immediately advise UEPL of any material change in its business practices of selling the Materials which would result in a change in the nature of proceeds derived from such sales.					Building and Construction Industry Security of Payments Act 2009	
16.4	UEPL and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.							
16.5	The Client hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.							
16.6	The Client waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.							
16.7	Unless otherwise agreed to in writing by UEPL, the Client waives its right to receive a verification statement in accordance with section 157 of the PPSA.							
16.8	The Client shall unconditionally ratify any actions taken by UEPL under clauses 16.3 to 16.5.							
16.9	Subject to any express provisions to the contrary (including those contained in this clause 16), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.							
17.	Security and Charge							
17.1	In consideration of UEPL agreeing to supply the Materials and/or provide its Works, the Client grants UEPL a security interest by way of a floating charge (registrable by UEPL pursuant to the PPSA) over all of its present and after acquired rights, title and interest (whether joint or several) in all other assets that is now owned by the Client or owned by the Client in the future, to the extent necessary to secure the repayment of monies owed under this Contract for provision of the Materials and/or Works under this Contract and/or permit UEPL to appoint a receiver to the Client in accordance with the Corporations Act 2007 (Cth).							
17.2	The Client indemnifies UEPL from and against all UEPL's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising UEPL's rights under this clause.							
17.3	In the event that the Client defaults or breaches any term of this Contract and as a result, the security provided in clauses 15.1, 16.2 and 17.1 as applicable, is deemed insufficient by UEPL to secure the repayment of monies owed by the Client to UEPL, the Client hereby grants UEPL a security interest as at the date of the default, by way of a charge, that enables the right and entitlement to lodge a caveat over any real property and or land owned by the Client now, or owned by the Client in the future, to secure the performance of the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).							
18.	Defects, Warranties and Returns, Competition and Consumer Act 2010 ("CCA")							
18.1	The Client must inspect all Materials on delivery (or the Works on completion) and must within seven (7) days of delivery notify UEPL in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Materials/Works as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must notify UEPL to inspect the Materials or to review the Works provided.							
18.2	Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).							
18.3	UEPL acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.							
18.4	Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, UEPL makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Materials/Works. UEPL's liability in respect of these warranties is limited to the fullest extent permitted by law.							
18.5	If the Client is a consumer within the meaning of the CCA, UEPL's liability is limited to the extent permitted by section 64A of Schedule 2.							
18.6	If UEPL is required to replace any Materials under this clause or the CCA, but is unable to do so, UEPL may refund any money the Client has paid for the Materials. If UEPL is required to rectify, re-supply, or pay the cost of re-supplying the Works under this clause or the CCA, but is unable to do so, then UEPL may refund any money the Client has paid for the Works but only to the extent that such refund shall take into account the value of Works and Materials which have been provided to the Client which were not defective.							
18.7	If the Client is not a consumer within the meaning of the CCA, UEPL's liability for any defect or damage in the Materials is:							
18.8	(a)	limited to the value of any express warranty or warranty card provided to the Client by UEPL at UEPL's sole discretion;	22.1					
	(b)	limited to any warranty to which UEPL is entitled, if UEPL did not manufacture the Materials;						
	(c)	otherwise negated absolutely.						
18.9	Subject to this clause 18, returns will only be accepted provided that:							
	(a)	the Client has complied with the provisions of clause 16.1; and	22.2					
	(b)	UEPL has agreed that the Materials are defective; and						
	(c)	the Materials are returned within a reasonable time at the Client's cost (if that cost is not significant); and						
	(d)	the Materials are returned in as close a condition to that in which they were delivered as is possible.						
18.10	Notwithstanding clauses 18.1 to 18.9 but subject to the CCA, UEPL shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:							
	(a)	the Client failing to properly maintain or store any Materials;	22.3					
	(b)	the Client using the Materials for any purpose other than that for which they were designed;	22.4					
	(c)	the Client continuing to use any Materials after any defect became apparent or should have become apparent to a reasonably prudent operator or user; interference with the Works by the Client or any third party without UEPL's prior approval;						
	(d)	the Client failing to follow any instructions or guidelines provided by UEPL; fair wear and tear, any accident, or act of God.						
18.11	In the case of second-hand Materials, unless the Client is a consumer under the CCA, the Client acknowledges that it has had full opportunity to inspect the second-hand Materials prior to delivery and accepts them with all faults and to the extent permitted by law no warranty is given by UEPL as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Client acknowledges and agrees that UEPL has agreed to provide the Client with							
	(a)	the provision of Works; and/or	22.5					
	(b)	analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Works; and/or	22.6					
	(c)	processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or						
	(d)	enabling the collection of amounts outstanding in relation to the Works.						
	UEPL may give information about the Client to a CRB for the following purposes:							
	(a)	to obtain a consumer credit report;	22.7					
	(b)	allow the CRB to create or maintain a credit information file about the Client including credit history.	22.8					
	The information given to the CRB may include:							
	(a)	Personal Information as outlined in 22.3 above;						
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