TERMS AND CONDITIONS OF POWDER COAT WARRANTY

AMIA Group Pty Ltd ABN 19 613 164 122, "Advance Metal Industries Australia" (referenced in this document as AMIA) is excluded from liability under this Warranty in the event that any of the following circumstances occur:

i. Any damage to or deterioration of the coating system arising from causes beyond the control of AMIA including but not limited to impact, abrasion, mechanical damage, neglect, malicious damage, fire damage, pollution, abnormal weather conditions and excessively salty environments.

ii. Where the surfaces have been recoated in plant or touched up in situ for one reason or another, without the prior written agreement of AMIA.

iii. Where exposed surfaces have not been adequately sealed with a suitable sealant or mastic.

iv. Where failure is associated with exposure of the coatings to temperatures in excess of 70 degrees Celsius, or to acid or other hazardous sources, which are damaging to powder coatings.

v. Where failure is associated with the use of adhesive tapes, or with the use of sealants or mastics.

vi. Where the coated surfaces have not been maintained by the property owner in accordance with the supplier's recommended care and maintenance procedures.

vii. Damage or deterioration caused by any accident or normal wear and tear or by any default or misuse of the powder coated joinery by the property owner or any third party.

viii. Where the aluminium extrusions used in the joinery have not been powder coated by an Interpon D Approved Applicator.

ix. Where the fabricator cannot substantiate that Interpon D1000 was used.

During the Warranty Period any change in colour that may occur to the Interpon D1000 film will occur evenly over any compatible surface provided that such surfaces are exposed to an even degree of weathering. The long-term colour integrity of Interpon D1000 powder coatings depends on the degree of exposure to the natural elements and the colour chosen. Where the coating is subject to pollution or a salty or coastal environment, the long-term colour retention properties may be affected.

Limit of Liability:

AMIA's liability shall be limited to the actual cost of repairing or replacing the defective product and such repair or replacement shall constitute the claimants' sole remedy.
Any repairs under this Warranty may only be carried out by AMIA or, after consultation with AMIA, by an applicator approved in writing by AMIA.
Should any rectification be required it is a condition of this warranty that the Customer obtain two written quotations for the repair and submit them to AMIA for approval.
AMIA reserves the right to reject any or all quotations submitted for the rectification of any potential claim and may obtain an alternative quotation to cover any agreed repairs.

AMIA is excluded from liability:

i. Unless all claims are received in writing within 30 days of the defect becoming apparent.

ii. Unless the defective area is greater than 5% of the total coated surface area.

iii. For any further direct, incidental, special, consequential or third party claims for loss, damage or expenses, subject to any overriding law (statutory or otherwise) to the contrary.

iv. For any representation, statement or information made by or on behalf of AMIA whether made prior to or after the giving of this Warranty, and its liability shall be solely derived from the terms of this Warranty, subject to any overriding law (statutory or otherwise) to the contrary.

v. If the building is outside the Building Code of Australia 2010 Classification of buildings and structures Part A3 Class 1 or Class 10; If the building is greater than three stories in height; or if the building is less than 100 metres from any salt water or surf line.

For further information please consult your aluminium joinery fabricator.

Disclaimer: All products supplied and technical advice given is subject to our standard terms of trade, the supplying company AMIA Group Pty Ltd. Interpon® is registered trademark of Akzo Nobel Pty Ltd and AMIA Group Pty Ltd is registered and an approved applicator under Licenced to apply warranty powders. Warranty shall commence from the date that Interpon D1000 or other warranty powder coatings are applied on these premises.

1. Film Integrity – 6 Years
Interpon D1000 powder coatings are warranted on the building not to check or crack for a minimum period of 6 Years from the date of application when applied and tested in accordance with AS3715-2002.
2. Colour Integrity – 6 Years
Interpon D1000 powder coatings shall retain colour integrity on the building for a minimum period of 6 Years from the date of application.
2.1 Colour Retention:
When colour measurements are taken across representative powder coated surfaces, **Interpon D1000** powder coatings will maintain an average colour consistency less than or equal to five (Hunterlab) determines colour change as calculated in accordance with ASTM D2244-85 Section 6.3. Colour change shall be measured on the exposed paint surface which has been cleaned of oil, grease, dirt, chalk, oxidised fi lm or other contaminants. Corresponding values shall be measured on the original retained batch panel

2.2 Chalking Resistance:
When measured on the product across representative exposed powder coated surfaces, **Interpon D1000** powder coating will be no more than represented by a No. 6 rating based on ASTM D 4214, test method A (method D 659).

Care and Maintenance

1. Powder coated Aluminium Joinery – a good choice.

Your aluminium joinery is factory pre-finished in long-lasting electrostatically applied **Interpon D1000** powder coatings. A combination of painstaking preparation, careful workmanship, and the latest technology have come together to bring you your powder coated windows and doors.

Powder coating is one of the most durable colour coatings available and with very little effort on your part will provide many years of excellent service. Interpon D1000 powder coatings are maintainable for an indefinite period under normal environmental conditions, provided that the recommended care and maintenance practices are followed.

2. Regular washing is the key to looking smart

To maintain the good looks of your powder coated aluminium joinery, each window and door unit needs regular washing all over – not just the parts that are sheltered from the rain. In fact looking after your windows is very much like looking after a new car – a regular wash keeps your investment in smart condition. Washing with a soft brush and mild Ph neutral detergent followed by thorough rinsing with fresh water will ensure that substances such as airborne salts, dirt and pollutants detrimental to the long term performance of the powder coated film are removed. Where the atmosphere is deemed to be non-hazardous such as rural or normal urban environments, cleaning must take place at least every 12 months.

In areas subject to high pollution such as industrial areas, geothermal environments or coastal environments then the cleaning frequency should be increased to every three months. In particularly hazardous locations such as beachfronts, severe marine environments or areas of high industrial pollution the period between cleaning should be reduced to monthly.

3. What to do about paint splashes

Painting around your house exterior may cause paint splashes to mar the appearance of your aluminium joinery. Such splashes should be removed with fresh water immediately. Using solvents on your joinery puts it at risk of damage.

If paint splashes need to be removed, White Spirits may be used provided that the surfaces are thoroughly washed with a soft brush and mild pH neutral detergent followed by thorough rinsing with fresh water immediately afterwards. It is recommended that the solvent be tested for suitability on a non-visible powder coated section prior to its use.

WARNING: Strong and abrasive household cleaners and solvents such as those recommended for thinning various types of paints such as MEK or paint thinners are harmful to powder coating and must be avoided for cleaning purposes under any circumstances. Acidic, alkaline or alcohol-based cleaning products should also be avoided.

Protection For Your Stainless Steel Balustrades and Cables
As researched by the Australian Stainless Steel Development Association (ASSDA)
Tea staining occurs from the build-up of contaminants from environmental factors such as living in close proximity to the ocean, pollution from the busy urban environment, swimming pools and industrial areas. This will turn them a brown rusty colour and can be expensive to clean and repair if left unattended over a long period.
The grade and finish of stainless steel also plays a factor in the appearance of your product.
Your balustrades are fitted with 316 Marine grade wires, which is recommended to be used in these environments. Due to small crevices in wire, salt will build up and cause staining. Therefore frequent cleaning is required.
The smoother the finish of the stainless steel the longer it takes for the build-up to occur. Regular washing with warm soapy water followed by a cold water rinse and dried with a microfiber rag every few weeks is sufficient to keep your product shining like new (depending on location). If you are within 500m of the sea, weekly cleaning is recommended.
The appearance of the surface can be improved further if the washed surface is wiped dry and then applying a silicon or lanolin spray such as Inox, for the best maintenance results.

Waterproofing:

Please advise if handrails are to be fixed to compressed cement sheeting deck?
If so, please consider the possibility of water penetrating through fixings, with this method of base plate attachment. Waterproofing is the responsibility of the builder prior to tiling.

4. Care and Maintenance of Hardware

AMIA warranties on all hardware are mirrored by the Manufacturer's Warranty

Regular maintenance is required for all hardware, including any stainless steel components

Frequency

In most environments, maintenance is recommended every six (6) months and every three (3) months in coastal, pool and industrial environments. Coastal environments are extremely harsh on finish and material. AMIA recommends all its products exposed to such conditions be washed and cleaned every month with a mild detergent to prevent salt build up and all cylinders be lubricated with a suitable graphite powder

The internal workings of locks, handles, catches etc should be kept in good working order by applying a light spray of lubricant similar to WD40 or RP7 into the area(s) of any moving parts.

The external finish of all hardware must be kept clean by removing any harmful residue, especially salt spray from the surface using a non-abrasive cleaning agent and wiped down with a soft cloth moistened with WD40 or RP7.

When maintaining either internal or external hardware, ensure that all finished surfaces (eg powder coated aluminium etc) in close proximity are well protected from exposure to any cleaning or lubricating agents.

All tracks and sills must be kept clear of dirt, debris and other matter which can cause damage to, and restrict the proper functioning of rollers, guides and drop bolts.

Note: this information is provided as a general guide only. It does not constitute a warranty. Advance Metal Industries Australia disclaims any responsibility for any specific results relating to the use of this guide or any liability for loss, damage or injury resulting for the sue of this guide. AMIA assumes no liability under the warranty also for the following:

I. Misuse, abuse, accidental or intentional damage, improper or negligent adjustment or operation
II. Improper or negligent maintenance or installation
III. Inaccurate or incorrect site or operational specification
IV. Repair or modification other than a authorised by the Manufacturer
V. Use contrary to the instructions furnished by the manufacturer
VI. Use of replacement parts other than authorised parts
VII. Tea Staining on stainless steel
VIII. Corrosion related damage when used in a corrosive environment
IX. Tarnish or excessive wear on soft finishes such as brass or bronze as deterioration is possible under some climatic conditions, frequency or use or other factors

Soft Finishes:

I. Will age (deteriorate) and the speed of aging will depend on climatic location and amount of use
II. Tarnishing accompanies soft finishes and will depend on climatic location and amount of use
III. Easily damaged by chemicals eg cleaning solvents, glass cleaners, brick acid and may other chemicals

Advance Metal Industries is a member of the Australian Window Association and as such, conforms to an Industry code of Conduct designed to protect consumers.

Advance Metal Industries Australia – Terms & Conditions of Trade

1. Definitions

1.1 "AMIA" means AMIA Group Pty Ltd T/A Advance Metal Industries Australia, its successors and assigns or any person acting on behalf of and with the authority of AMIA Group Pty Ltd T/A Advance Metal Industries Australia.

1.2 "Customer" means the person/s ordering the Works as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.

1.3 "Works" means all Works (including consultation, manufacturing and/or installation services) or Materials supplied by AMIA to the Customer at the Customer's request from time to time (where the context so permits the terms 'Works' or 'Materials' shall be interchangeable for the other). Such Works shall be supplied during AMIA's normal working hours of 7:30 am to 4:00 pm.

1.4 "Price" means the Price payable (plus any GST where applicable) for the Works as agreed between AMIA and the Customer in accordance with clause 5 below.

1.5 "GST" means Goods and Services Tax (GST) as defined within the "A New Tax System (Goods and Services Tax) Act 1999" Cth.

2. Acceptance

2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of any Works.

2.2 These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and AMIA.

2.3 Works are supplied by AMIA only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Customer's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions.

3. Electronic Transactions Act 2000

3.1 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

4. Change in Control

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

5. Price and Payment

5.1 At AMIA's sole discretion the Price shall be either:
- (a) as indicated on invoices provided by AMIA to the Customer in respect of Works performed or Materials supplied; or
- (b) AMIA's quoted Price (subject to clause 5.2) which shall be binding upon AMIA provided that the Customer shall accept AMIA's quotation in writing within thirty (30) days.

5.2 AMIA reserves the right to change the Price:
- (a) if a variation to the Materials which are to be supplied is requested; or
- (b) if a variation to the Works originally scheduled (including any applicable plans or specifications) is requested; or
- (c) where additional Works are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, price fluctuations of raw materials, poor weather conditions, limitations to accessing the site, availability of machinery, safety considerations, prerequisite work by any third party not being completed, changes to design, or hidden pipes and wiring in walls etc.) which are only discovered on commencement of the Works; or
- (d) in the event of increases to AMIA in the cost of labour or Materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond AMIA's control.

5.3 Variations will be charged for on the basis of AMIA's quotation, and will be detailed in writing, and shown as variations on AMIA's invoice. The Customer shall be required to respond to any variation submitted by AMIA within ten (10) working days. Failure to do so will entitle AMIA 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.

5.4 At AMIA's sole discretion a deposit may be required.

5.5 Time for payment for the Works being of the essence, the Price will be payable by the Customer on the date/s determined by AMIA, which may be:
- (a) on completion of the Works; or
- (b) prior to delivery of the Materials; or
- (c) by way of progress payments in accordance with AMIA's specified progress payment schedule. Such progress payment claims may include the reasonable value of authorised variations and the value of any Materials delivered to the site but not yet installed; or
- (d) the date specified on any invoice or other form as being the date for payment; or
- (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by AMIA.

5.6 Payment may be made by cash, cheque, electronic/on-line banking, credit card excluding Diners (a surcharge may apply per transaction), or by any other method as agreed to between the Customer and AMIA.

5.7 The Customer shall not be entitled to withhold payment of any amount outstanding due to any alleged defect or warranty claim. In the event that the Customer withholds payment on this basis, AMIA reserves the right to treat this as placing the Customer's account into default.

5.8 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by AMIA nor to withhold payment of any invoice because part of that invoice is in dispute.

5.9 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to AMIA an amount equal to any GST AMIA must pay for any supply by AMIA under this or any other agreement for the sale of the Materials. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition the Customer 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.

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6. Delivery of the Materials and Works

6.1 Subject to clause 6.2 it is AMIA's responsibility to ensure that the Works start as soon as it is reasonably possible.

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 AMIA claims an extension of time (by giving the Customer written notice) where completion is delayed by an event beyond AMIA's control, including but not limited to any failure by the Customer to:
(a) make a selection; or
(b) have the site ready for the Works; or
(c) notify AMIA that the site is ready.

6.3 At AMIA's sole discretion, the cost of delivery is either included in the Price or is in addition to the Price.

6.4 Any costs of delivering the Materials incurred by AMIA by way of external courier, transport or freight companies (which at, AMIA's sole discretion shall be nominated to deliver the Materials if the nominated address is outside AMIA's network) shall be on-chard to the Customer.

6.5 The Customer shall make all arrangements necessary to ensure they, or an authorised representative, is in attendance at the nominated address to take delivery of the Materials, and sign AMIA's delivery docket, whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Materials as arranged, and/or the nominated address is unattended, then AMIA shall be entitled to charge a reasonable fee for redelivery.

6.6 Delivery of the Materials to a third party by the Customer is deemed to be delivery of the Materials to the Customer for the purposes of this agreement.

6.7 AMIA 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.

6.8 The Customer shall, at their own expense, provide a point of collection for all site rubbish (including, but not limited to, debris). Unless otherwise stated, AMIA shall only be obligated to perform a "trade clean" and shall not be responsible for the final removal of rubbish from or clean up of the building/construction site/s. This is the responsibility of the Customer or the Customer's agent.

6.9 Any time or date given by AMIA to the Customer is an estimate only. AMIA shall not be liable for any loss or damage whatsoever due to failure by AMIA to deliver the Works (or any part of them) promptly or at all, where due to circumstances beyond the reasonable control of AMIA.

7. Risk

7.1 If AMIA retains ownership of the Materials under clause 12 then:
(a) where AMIA is supplying Materials only, all risk for the Materials shall immediately pass to the Customer on delivery and the Customer must insure the Materials on or before delivery. Delivery of the Materials shall be deemed to have taken place immediately at the time that either;
(i) the Customer or the Customer's nominated carrier takes possession of the Materials at AMIA's address; or
(ii) the Materials are delivered by AMIA or AMIA's nominated carrier to the Customer's nominated delivery address (even if the Customer is not present at the address).
(b) where AMIA is to both supply and install Materials then AMIA 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 Customer.

7.2 AMIA shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Customer. The Customer acknowledges and agrees that in the event that any of this information provided by the Customer is inaccurate, AMIA accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.

7.3 The Customer acknowledges that Materials supplied may exhibit variations in shade, colour, texture, surface and finish, and may fade or change colour over time. AMIA will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.

7.4 The long-term colour integrity of the Materials is dependent on the colour chosen and the degree of exposure to the natural elements. Long-term colour retentions properties may be affected where Materials are subject to pollution or a salty environment.

7.5 Strong and abrasive household cleaners and solvents such as those recommended for thinning various types of paints such as MEK or paint thinners are harmful to the Materials and must not be used for cleaning purposes under any circumstances. Acidic, alkaline or alcohol-based cleaning products should not be used either.

7.6 The Customer agrees to take all necessary precautions to ensure that the Works and/or Materials are undamaged, kept in good condition and safe from loss or damage. The Customer shall bear all costs associated with the repair or replacement of damaged and/or lost Materials or Works.

7.7 Holes, cut outs and cutting of the Materials may weaken the strength of the Materials and although it's unlikely, cracking may occur. AMIA accepts no responsibility against cracks occurring after such Materials (that are subject to holes and cut outs) are installed unless a toughened glass is used.

7.8 The Customer acknowledges that where an anodised surface finish has been selected, slight colour variation may occur between the main unit frame and any installation trims used due to the difference in aluminium alloys available and manufacturing standards and tolerances shall not deemed to be a defect in the Materials.

7.9 The Customer acknowledges and agrees that AMIA shall not accept the return, nor give any refund on any glass that has already been cut as it cannot be resold.

8. Suitability for Applications

8.1 To the extent permitted by law, no condition is made or to be implied, nor is any warranty given, or to be implied as to the life or wear of the Materials supplied or that they will be suitable for any particular purpose, or for use under specific conditions, notwithstanding that such purpose or conditions may be known or made known to AMIA. Whilst AMIA supplies products in accordance with specific manufacturing standards, it is the Customer's responsibility to ensure that the Materials comply with the requirements of the applicable Australian Glazing Standards and codes of particular glazing applications. AMIA reserves the right to sub-contract the production, manufacture or supply of the whole or any part of the Materials or any Materials or Works to be supplied.

8.2 The Customer acknowledges the Materials supplied are not to be used:

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(a) as part of any aircraft or whatsoever nature; and
(b) for any other purpose than originally intended, unless the Customer (or any other party) establishes by a complete and comprehensive testing procedures, and where reasonable a qualified engineer certifies, that the Materials are fit for that purpose.

9. Dimensions, Plans and Specifications

9.1 All customary building industry tolerances shall apply to the dimensions and measurements of the Materials unless AMIA and the Customer agree otherwise in writing.

10. Access

10.1 The Customer shall ensure that AMIA has clear and free access to the work site at all times to enable them to undertake the Works. AMIA shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of AMIA.

10.2 It is the responsibility of the Customer to ensure that access is suitable to accept the weight of laden trucks and where required, to provided unloading equipment. The Customer agrees to indemnify AMIA against all costs incurred by AMIA in recovering such vehicles in the event they become bogged or otherwise immovable.

11. Compliance with Laws

11.1 The Customer and AMIA 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.

11.2 The Customer shall obtain (at the expense of the Customer) all licenses and approvals that may be required for the Works.

11.3 The Customer agrees that the site will comply with any work health and safety (WHS) laws relating to building/construction sites and any other relevant safety standards or legislation.

12. Title

12.1 AMIA and the Customer agree that ownership of the Materials shall not pass until:
(a) the Customer has paid AMIA all amounts owing to AMIA; and
(b) the Customer has met all of its other obligations to AMIA.

12.2 Receipt by AMIA 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.

12.3 It is further agreed that:
(a) until ownership of the Materials passes to the Customer in accordance with clause 12.1 that the Customer is only a bailee of the Materials and unless the Materials have become fixtures must return the Materials to AMIA on request.
(b) the Customer holds the benefit of the Customer's insurance of the Materials on trust for AMIA and must pay to AMIA the proceeds of any insurance in the event of the Materials being lost, damaged or destroyed.
(c) the production of these terms and conditions by AMIA shall be sufficient evidence of AMIA's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with AMIA to make further enquiries.
(d) the Customer 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 Customer sells, disposes or parts with possession of the Materials then the Customer must hold the proceeds of any such act on trust for AMIA and must pay or deliver the proceeds to AMIA on demand.
(e) the Customer should not convert or process the Materials or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of AMIA and must sell, dispose of or return the resulting product to AMIA as it so directs.
(f) unless the Materials have become fixtures the Customer irrevocably authorises AMIA to enter any premises where AMIA believes the Materials are kept and recover possession of the Materials.
(g) AMIA may recover possession of any Materials in transit whether or not delivery has occurred.
(h) the Customer 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 AMIA.
(i) AMIA may commence proceedings to recover the Price of the Materials sold notwithstanding that ownership of the Materials has not passed to the Customer.

13. Personal Property Securities Act 2009 ("PPSA")

13.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

13.2 Upon assenting to these terms and conditions in writing the Customer 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 Customer to AMIA for Works – that have previously been supplied and that will be supplied in the future by AMIA to the Customer.

13.3 The Customer undertakes to:
(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which AMIA may reasonably require to:
  (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
  (ii) register any other document required to be registered by the PPSA; or
  (iii) correct a defect in a statement referred to in clause 13.3(a)(i) or 13.3(a)(ii);
(b) indemnify, and upon demand reimburse, AMIA 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;
(c) not register a financing change statement in respect of a security interest without the prior written consent of AMIA;

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(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 AMIA;
(e) immediately advise AMIA 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.

13.4 AMIA and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
13.5 The Customer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
13.6 The Customer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
13.7 Unless otherwise agreed to in writing by AMIA, the Customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.
13.8 The Customer shall unconditionally ratify any actions taken by AMIA under clauses 13.3 to 13.5.
13.9 Subject to any express provisions to the contrary (including those contained in this clause 13) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

14. Security and Charge

14.1 In consideration of AMIA agreeing to supply the Works, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
14.2 The Customer indemnifies AMIA from and against all AMIA's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising AMIA's rights under this clause.
14.3 The Customer irrevocably appoints AMIA and each director of AMIA as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Customer's behalf.

15. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

15.1 The Customer must inspect all Materials on delivery and immediately sign AMIA's delivery docket in confirmation that the Materials have been delivered. The Customer is required, upon signing AMIA's delivery docket to document evident defect/damage, shortage in quantity, or failure to comply with the description or quote, and the Materials shall be returned immediate to AMIA, where they shall be inspected by AMIA, by way of the original nominated carrier
15.2 Where the delivered Materials are of a substantial number, the Customer shall state on the delivery docket that the Materials have not yet been inspected and shall do so as soon as practically possible, as AMIA will only consider claims for any alleged defect, shortage in quantity, damage or failure to comply with the description or quote that have been notified to them by the Customer within twenty-four (24) hours of delivery. The Customer shall afford AMIA an opportunity to inspect the Materials within a reasonable time following notification, if the Customer believes the Materials are defective in any way.
15.3 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**).
15.4 AMIA acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
15.5 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, AMIA makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Materials/Works. AMIA's liability in respect of these warranties is limited to the fullest extent permitted by law.
15.6 If the Customer is a consumer within the meaning of the CCA, AMIA's liability is limited to the extent permitted by section 64A of Schedule 2.
15.7 If AMIA is required to replace any Materials under this clause or the CCA, but is unable to do so, AMIA may refund any money the Customer has paid for the Materials.
15.8 If AMIA 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 AMIA may refund any money the Customer 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 Customer which were not defective.
15.9 If the Customer is not a consumer within the meaning of the CCA, AMIA's liability for any defect or damage in the Materials is:
(a) limited to the value of any express warranty or warranty card provided to the Customer by AMIA at AMIA's sole discretion;
(b) limited to any warranty to which AMIA is entitled, if AMIA did not manufacture the Materials;
(c) otherwise negated absolutely.
15.10 Subject to this clause 15, returns will only be accepted provided that:
(a) the Customer has complied with the provisions of clause 15.1; and
(b) AMIA has agreed that the Materials are defective; and
(c) the Materials are returned within a reasonable time at the Customer'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.
15.11 Notwithstanding clauses 15.1 to 15.10 but subject to the CCA, AMIA 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 Customer failing to properly store or maintain any Materials in accordance with AMIA's recommended care instructions, guidelines, procedures, and cleaning and maintenance program;
(b) the Customer using the Materials for any purpose other than that for which they were designed;
(c) the Customer continuing to use any Materials after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
(d) interference with the Works by the Customer or any third party without AMIA's prior approval;
(e) the Customer failing to follow any instructions or guidelines provided by AMIA;
(f) fair wear and tear, any accident, or act of God.
15.12 AMIA may in its absolute discretion accept non-defective Materials for return in which case AMIA may require the Customer to pay handling fees of up to twenty-five percent (25%) of the value of the returned Materials plus any freight costs.

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16. Default and Consequences of Default

16.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at AMIA's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

16.2 If the Customer owes AMIA any money the Customer shall indemnify AMIA from and against all costs and disbursements incurred by AMIA in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, AMIA's contract default fee, and bank dishonour fees).

16.3 Further to any other rights or remedies AMIA may have under this contract, if a Customer has made payment to AMIA, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by AMIA under this clause 16 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this agreement.

16.4 Without prejudice to any other remedies AMIA may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions AMIA may suspend or terminate the supply of Works to the Customer. AMIA will not be liable to the Customer for any loss or damage the Customer suffers because AMIA has exercised its rights under this clause.

16.5 Without prejudice to AMIA's other remedies at law AMIA shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to AMIA shall, whether or not due for payment, become immediately payable if:

(a) any money payable to AMIA becomes overdue, or in AMIA's opinion the Customer will be unable to make a payment when it falls due;
(b) the Customer becomes insolvent or bankrupt, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

17. Cancellation

17.1 Without prejudice to any other remedies AMIA may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions AMIA may suspend or terminate the supply of Works to the Customer. AMIA will not be liable to the Customer for any loss or damage the Customer suffers because AMIA has exercised its rights under this clause.

17.2 AMIA may cancel any contract to which these terms and conditions apply or cancel delivery of Works at any time before the Works are commenced by giving written notice to the Customer. On giving such notice AMIA shall repay to the Customer any sums paid in respect of the Price, less any amounts owing by the Customer to AMIA for Works already performed. AMIA shall not be liable for any loss or damage whatsoever arising from such cancellation.

17.3 In the event that the Customer cancels the delivery of Works the Customer shall be liable for any and all loss incurred (whether direct or indirect) by AMIA as a direct result of the cancellation (including, but not limited to, any loss of profits).

18. Privacy Act 1988

18.1 The Customer agrees for AMIA to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by AMIA.

18.2 The Customer agrees that AMIA may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:

(a) to assess an application by the Customer; and/or
(b) to notify other credit providers of a default by the Customer; and/or
(c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
(d) to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two years.

18.3 The Customer consents to AMIA being given a consumer credit report to collect overdue payment on commercial credit.

18.4 The Customer agrees that personal credit information provided may be used and retained by AMIA for the following purposes (and for other agreed purposes or required by):

(a) the provision of Works; and/or
(b) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Works; and/or
(c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
(d) enabling the collection of amounts outstanding in relation to the Works.

18.5 AMIA may give information about the Customer to a CRB for the following purposes:

(a) to obtain a consumer credit report;
(b) allow the CRB to create or maintain a credit information file about the Customer including credit history.

18.6 The information given to the CRB may include:

(a) personal information as outlined in 18.1 above;
(b) name of the credit provider and that AMIA is a current credit provider to the Customer;
(c) whether the credit provider is a licensee;
(d) type of consumer credit;
(e) details concerning the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
(f) advice of consumer credit defaults, 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 Customer no longer has any overdue accounts and AMIA has been paid or otherwise discharged and all details surrounding that discharge(e.g. dates of payments);
(g) information that, in the opinion of AMIA, the Customer has committed a serious credit infringement;
(h) advice that the amount of the Customer's overdue payment is equal to or more than one hundred and fifty dollars ($150).

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18.7 The Customer shall have the right to request (by e-mail) from AMIA:
(a) a copy of the information about the Customer retained by AMIA and the right to request that AMIA correct any incorrect information; and
(b) that AMIA does not disclose any personal information about the Customer for the purpose of direct marketing.

18.8 AMIA will destroy personal information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.

18.9 The Customer can make a privacy complaint by contacting AMIA via e-mail. AMIA 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 Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.

19. Dispute Resolution

19.1 If a dispute arises between the parties to this contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:
(a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and
(b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

20. Building and Construction Industry Security of Payments Act 1999

20.1 At AMIA's sole discretion, if there are any disputes or claims for unpaid Materials and/or Works then the provisions of the Building and Construction Industry Security of Payments Act 1999 may apply.

20.2 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payments Act 1999 of New South Wales, except to the extent permitted by the Act where applicable.

21. Service of Notices

21.1 Any written notice given under this contract shall be deemed to have been given and received:
(a) by handing the notice to the other party, in person;
(b) by leaving it at the address of the other party as stated in this contract;
(c) by sending it by registered post to the address of the other party as stated in this contract;
(d) if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of the transmission;
(e) if sent by email to the other party's last known email address.

21.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

22. General

22.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

22.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales in which AMIA has its principal place of business, and are subject to the jurisdiction of the courts in New South Wales.

22.3 Subject to clause 15, AMIA shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by AMIA of these terms and conditions (alternatively AMIA's liability shall be limited to damages which under no circumstances shall exceed the Price of the Works).

22.4 AMIA may licence and/or assign all or any part of its rights and/or obligations under this contract without the Customer's consent.

22.5 The Customer cannot licence or assign without the written approval of AMIA.

22.6 AMIA may elect to subcontract out any part of the Works but shall not be relieved from any liability or obligation under this contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of AMIA's sub-contractors without the authority of AMIA.

22.7 The Customer agrees that AMIA may amend these terms and conditions by notifying the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for AMIA to provide Works to the Customer.

22.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

22.9 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.

Signed: _____ Name:_____ Date: _____

Position:_____ Business Name: _____

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