

Terms and Conditions
Proptec Pty Ltd
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These Terms and Conditions apply to the sale of goods or service to the Customer by Proptec.

1. Definitions

- 1.1 **Application** means the application for credit completed and signed by the Customer and accepted by Proptec including the terms of any guarantee;
- 1.2 **CCA** means the *Competition and Consumer Act 2010* (Cth) as amended;
- 1.3 **Consequential Loss** means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence, statute or otherwise);
- 1.4 **Credit Limit** means the credit limit for any account of the Customer approved by Proptec;
- 1.5 **Customer** means the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any Application or other form provided by Proptec to the Customer together with their successors and assigns;
- 1.6 **Delivery Date** means the estimated date of shipment or delivery of the Goods as specified in the Order Confirmation;
- 1.7 **Deposit** means the portion of the Price specified in the Order Confirmation payable by the Customer prior to dispatch of the Goods for delivery;
- 1.8 **Guarantor** means that person (or persons) who agrees to be liable for the debts of the Customer on a principal debtor basis as set out in the Application;
- 1.9 **Goods** mean all goods supplied by Proptec to the Customer from time to time and are as described on any order, invoices, quotation or any other forms as provided by Proptec to the Customer;
- 1.10 **Proptec** means Proptec Pty Ltd A.C.N. 135 760 173 trading as "Proptec", its successors and assigns or any person acting on behalf of and with the authority of Proptec;
- 1.11 **Loss** means any loss, expense, cost, liability or damage of any kind and includes Consequential Loss and any fine or penalty imposed by a statutory or other authority and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise;
- 1.12 **Minimum Order Price** means fifty dollars (\$50.00) exclusive of GST;
- 1.13 **Order** means an order placed in writing by a Customer specifying the type and quantity of Goods required (including details of any special requirements);
- 1.14 **Order Confirmation** means a confirmation of an Order in writing issued by Proptec to the Customer.
- 1.15 **PPSA** means the *Personal Property Securities Act 2009* (Cth) as amended;
- 1.16 **PPSR** means the Personal Property Securities Register;
- 1.17 **Price** means the price payable for the Goods as agreed between Proptec and the Customer in accordance with clause 3 of the Terms & Conditions;
- 1.18 **Solicitor and Client Legal Costs** means all legal costs and disbursements incurred by Proptec in pursuing any debt arising from any default in payment of the Price or any invoice when due, except for those of an unreasonable amount or unreasonably incurred, unless approved by the Customer; and
- 1.19 **Terms & Conditions** means these terms and conditions, the Application (if applicable), any invoice and any other documentation relating to the supply of the Goods and attached to these Terms & Conditions.

2. Acceptance

- 2.1 These Terms & Conditions apply and are incorporated into each and every Order for the supply of Goods or the Customer's acceptance of Goods.
- 2.2 The following terms will apply to Customers who have completed an Application and been approved with a Credit Limit:
- 2.2.1 The Customer acknowledges that the supply of Goods on credit will not take effect until the Customer has completed the Application with Proptec and the Customer has been approved with a Credit Limit.
- 2.2.2 A new Application must be completed if there has been no supply of Goods for more than two (2) years.
- 2.2.3 In the event that the supply of Goods request exceeds the Credit Limit and/or the account exceeds the payment terms, Proptec reserves the right to refuse supply and/or delivery of any Goods or require payment on a cash on delivery basis.
- 2.3 Where more than one (1) Customer has entered into these Terms & Conditions, the Customers will be jointly and severally liable for all payments of the Price.
- 2.4 The Customer will give Proptec not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, telephone number, or business practice). The Customer will be liable for any Loss incurred by Proptec as a result of the Customer's failure to comply with this clause.
- 2.5 If Proptec varies these Terms & Conditions and provides reasonable notice to the Customer of the variation, these Terms & Conditions are varied and incorporated into each and every contract for the supply of Goods made between Proptec and the Customer after the date of such notice.
- 2.6 Goods are supplied by Proptec only on these Terms & Conditions 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 & Conditions unless such terms and conditions have been agreed in writing by Proptec.

3. Orders

- 3.1 All Orders are to be made in writing or email as follows:
- 3.2 Orders are not accepted until an Order Confirmation is issued to the Customer by Proptec.
- 3.3 The Customer acknowledges that Orders of certain Goods are subject to the following lead times:
- 3.3.1 for Orders of propagation supplies from Proptec – six (6) to eight (8) weeks, as a guide. Subject to delays.
- 3.4 The sum of an Order for propagation material, growing media or any other Proptec Pty Ltd products from Proptec must be equal to or greater than the Minimum Order Price. Where the Order is less than the Minimum Order Price, Proptec reserves the right to increase the Order to meet the Minimum Order Price.
- 3.5 Proptec has the right to substitute Goods ordered by the Customer for another type or quantity of goods (provided that such substituted goods are of similar nature and quality), unless the Customer specifically advises Proptec in writing prior to the Goods being dispatched that substituted goods will not be accepted.

4. Deposits, Price and Payment.

5. A Deposit will be required on all machinery or equipment orders as per Proptec Quote, as entered on the Proptec final quote / order confirmation.
6. Proptec may request payment by the customer of a non- refundable deposit of a maximum 30%, prior to the supply or delivery for any other products.
7. Proptec accounts will send an invoice to the customer, when deposit payment is due.
- 7.1 At Proptec's sole discretion the Price will be either:
 - 7.1.1 as indicated on invoices or statements provided by Proptec to the Customer in respect of Goods supplied or delivered; or
 - 7.1.2 Proptec's price for the Goods as at the Delivery Date of the Goods according to Proptec's current advertised catalogue.
- 7.2 Proptec may request payment by the Customer of a non-refundable Deposit of a maximum 30% prior to the supply or delivery of the Goods.
- 7.3 Proptec may, in its sole discretion, require payment of the Price by the Customer either prior to or on delivery of the Goods. If pre-payment of the Price is required, payment must be received by Proptec by 12pm the day prior to dispatch of the Goods.
- 7.4 Payment of the Price will be as stated on the invoice or any other form provided by Proptec to the Customer. If no time for payment of the Price is stated then payment of the Price will be thirty (30) days following the date of the relevant invoice or statement (as the case may be).
- 7.5 Payment of the Price must be made by cash, personal cheque, bank cheque, credit card, direct credit, or by any other method as agreed to between the Customer and Proptec. Any payment of the Price by credit card may incur a surcharge of up to three percent (3%) of the Price.
- 7.6 Unless otherwise stated, GST and other taxes and duties that may be applicable to the supply of the Goods by Proptec will be added to the Price.
- 7.7 Prices shown in any catalogue published by Proptec may be varied without notice to the Customer at any time.
- 8. Delivery of Goods**
- 8.1 The Customer acknowledges that the Delivery Date specified on the Order Confirmation is an estimate only.
- 8.2 The Customer may collect the Goods from Proptec's nominated business premises by giving forty-eight (48) hours notice in writing to Proptec. Collection hours are strictly between 9:00am to 4:00pm Monday to Thursday and 9:00am to 12:00pm Friday.
- 8.3 At Proptec's sole discretion, delivery of the Goods is deemed to have taken place when:
 - 8.3.1 the Customer takes possession of the Goods at Proptec's nominated business address; or
 - 8.3.2 the Goods are delivered to the Customer's address as specified in the Order (in the event that the Goods are delivered by Proptec or Proptec's nominated carrier); or
 - 8.3.3 the Customer's nominated carrier takes possession of the Goods in which event the carrier will be deemed to be the Customer's agent.
- 8.4 The cost of delivery of the Goods will be either:
 - 8.4.1 included in the Price; or
 - 8.4.2 in addition to the Price;and will be advised to the Customer prior to delivery of any Goods.
- 8.5 The Customer is liable to pay Proptec for the costs of any special packing or packing materials used for the Goods.
- 8.6 The Customer will make all arrangements necessary to take delivery of the Goods on the day and time nominated by Proptec. In the event that the Customer is unable to take delivery of the Goods at the nominated day and time:
 - 8.6.1 the Customer acknowledges and agrees that the quality and standard of the Goods may be affected or diminished and Proptec accepts no responsibility for the same; and
 - 8.6.2 Proptec will be entitled to charge a reasonable fee for redelivery of the Goods.
- 8.7 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of these Terms & Conditions.
- 8.8 Proptec may, in its sole discretion, deliver the Goods by separate installments. Each separate installment will be invoiced by Proptec and paid by the Customer in accordance with these Terms & Conditions.
- 8.9 The Customer will take delivery of the Goods notwithstanding that the quantity so delivered may be either greater or lesser than the Order Confirmation provided that:
 - 8.9.1 such discrepancy in quantity does not exceed five percent (5%); and
 - 8.9.2 the Price is adjusted pro rata to the extent of the discrepancy.
- 8.10 Where the Customer expressly requests Proptec to either:
 - 8.10.1 leave Goods outside Proptec's nominated business premises for collection; or
 - 8.10.2 deliver the Goods to an unattended location,such Goods are at the Customer's sole risk.
- 8.11 Any failure or delay in delivery of the Goods by Proptec will not entitle either party to treat the Terms & Conditions as repudiated.
- 8.12 Proptec will not be liable for any Loss whatsoever due to any failure by Proptec to deliver the Goods (or any part of them) promptly or at all, where such failure is due to circumstances beyond the control of Proptec.
- 9. Title**
- 9.1 The Customer agrees that title in and to the Goods will not pass to the Customer until:
 - 9.1.1 the Customer has paid Proptec all amounts owing for any Goods supplied by Proptec; and
 - 9.1.2 the Customer has met all other obligations due by the Customer to Proptec in respect of all invoices and contracts as and between Proptec and the Customer.
- 9.2 The parties acknowledge and agree as follows:
 - 9.2.1 Where practicable, the Customer will keep the Goods separate and identifiable until Proptec has received payment in full of all outstanding monies the Customer owes Proptec and all other obligations of the Customer have been complied with.
 - 9.2.2 Until such time as title in and to the Goods passes from Proptec to the Customer pursuant to these Terms & Conditions, Proptec may give notice in writing to the Customer to return the Goods or any of them to Proptec.
 - 9.2.3 Proptec will have the right of stopping the Goods in transit whether or not delivery has been made.
 - 9.2.4 If the Customer fails to return the Goods to Proptec then Proptec or Proptec's agent may (as the invitee of the Customer) enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Goods are situated and take possession of the Goods.
 - 9.2.5 The Customer is only a bailee of the Goods and until such time as Proptec has received payment in full of all outstanding monies the Customer owes Proptec and the Customer will hold any proceeds from the sale or disposal of the Goods, up to and including the amount the Customer owes to Proptec for the Goods, on trust for Proptec. The Customer will not deal with the money of Proptec in any way which may be adverse to Proptec's interests.
 - 9.2.6 The Customer will not charge the Goods in any way nor grant nor otherwise give any interest (including any security interest) in the Goods until title in the Goods pass to the Customer.

9.2.7 Proptec may issue proceedings to recover any monies owing by the Customer, notwithstanding that title to or in the Goods may not have passed to the Customer.

9.2.8 Until such time as title to or in the Goods passes to the Customer by the operation of this clause 9, if the Goods are converted into other products, the parties agree that Proptec will be the owner of any end products comprising the Goods.

10. Risk

10.1 Notwithstanding anything else in these Terms & Conditions, all risk in the Goods passes to the Customer at the time of delivery and the Customer must insure the Goods from that time.

10.2 If any of the Goods are damaged or destroyed after delivery of the Goods but prior to title in the Goods passing to the Customer, Proptec is entitled to receive all insurance proceeds received by the Customer for the Goods.

10.3 The production of these Terms and Conditions by Proptec is sufficient evidence of Proptec's rights to receive the insurance proceeds without the need for any person dealing with Proptec to make further enquiries.

11. CCA

11.1 Subject to Proptec's statutory obligations under the CCA the following provisions apply:

8.1.1 Proptec's liability for a breach of a condition or warranty implied by Pt 3-2 Div 1 of the CCA is limited to any one (1) or more of the following:

- (i) the replacement of the Goods or the supply of equivalent goods;
- (ii) the repair of the Goods;
- (iii) the payment of the cost of replacing the Goods or of acquiring equivalent goods; or
- (iv) the payment of the cost of having the Goods repaired.

8.1.2 Subject to Proptec's statutory obligations under the CCA and except as provided in these Terms & Conditions, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded.

8.1.3 Proptec is not liable to the Customer for any physical or financial injury, Loss or Consequential Loss of any kind arising out of the supply, layout, assembly, installation or operation of the Goods or arising out of negligence or in any way whatsoever.

11.1.4 Proptec's liability under section 274 of the CCA is expressly limited to a liability to pay the Customer an amount equal to:

- (i) the cost of replacing the Goods;
- (ii) the cost of obtaining equivalent goods; or
- (iii) the cost of having the Goods repaired,

whichever is the lowest amount.

12. PPSA

12.1 In this clause:

12.1.1 **financing statement** has the meaning given to it by the PPSA;

12.1.2 **financing change statement** has the meaning given to it by the PPSA;

12.1.3 **security agreement** means the security agreement under the PPSA created between the Customer and Proptec by the Terms & Conditions; and

12.1.4 **security interest** has the meaning given to it by the PPSA.

12.2 Upon assenting to these Terms and Conditions in writing the Customer acknowledges and agrees that these Terms & Conditions:

12.2.1 constitute a security agreement for the purposes of the PPSA; and

12.2.2 create a security interest in:

- (i) all Goods previously supplied by Proptec to the Customer (if any); and
- (ii) all Goods that will be supplied in the future by Proptec to the Customer.

12.3 The Customer undertakes to:

12.3.1 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 Proptec may reasonably require to:

- (i) register a financing statement or financing change statement in relation to a security interest on the PPSR;
- (ii) register any other document required to be registered by the PPSA; or
- (iii) correct a defect in a statement referred to in clause 12.3.1(i) or clause 12.3.1(ii);

12.3.2 indemnify, and upon demand reimburse, Proptec for all expenses incurred in registering a financing statement or financing change statement on the PPSR established by the PPSA or releasing any Goods charged thereby;

12.3.3 not register a financing change statement in respect of a security interest without the prior written consent of Proptec;

12.3.4 not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of Proptec; and

12.3.5 immediately advise Proptec of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.

12.4 Proptec and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these Terms & Conditions.

12.5 The Customer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d), 132(4) and 135 of the PPSA.

12.6 The Customer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

12.7 Unless otherwise agreed to in writing by Proptec, the Customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.

12.8 The Customer will unconditionally ratify any actions taken by Proptec under clauses 12.3, 12.4 and 12.5.

13. Warranties

13.1 To the extent permitted by law, Proptec does not warrant the following:

13.1.1 any of the Goods that are not manufactured or produced by Proptec; or

13.1.2 defects or deterioration in or of the Goods which, in the opinion of Proptec, have been caused by careless or improper handling, negligence, misuse, non-adherence to care, operating, cleaning or maintenance instructions, alterations or repairs carried out by anyone other than Proptec's authorised representatives, or by fair wear and tear; or

13.1.3 that the Goods are fit for use. The Customer acknowledges and agrees that they have had the opportunity to review the variety of Goods offered by Proptec together with their specifications and quality.

13.2 Proptec will not be liable to the Customer in any way for any costs or Loss of any kind whatsoever (including, without limitation, liability for Consequential Loss) incurred or sustained by the Customer or any third party arising from or in connection with the Goods and any damage caused. The Customer must take reasonable steps to mitigate any Loss it suffers or incurs.

13.3 Where a Good or any part of a Good is not manufactured or produced by Proptec, Proptec will use reasonable endeavours to assign to the Customer the benefit of any warranty in respect of that part of the Good.

13.4 Any warranty of Proptec cannot be assigned or transferred to any third party.

14. Returns

14.1 Other than non-catalogue items or Goods made to the Customer's specifications (which cannot be returned or credited), where a Customer is not satisfied with the Goods, the Customer may, at its cost, make a claim in writing to Proptec.

14.2 For the purpose of making any claim under this clause 14, the Customer must:

14.2.1 immediately upon becoming aware of circumstances giving rise to a claim, notify Proptec in writing setting out full details of the claim and providing the Customer's contact details and not later than forty-eight (48) hours after delivery of the Goods;

14.2.2 provide Proptec with a description of the defect and proof of purchase of the Goods in relation to which the claim is made;

14.2.3 allow Proptec, its employees and/or agents full and free access to the Goods in relation to which the claim is made and to the place where the Goods are located for the purpose of conducting any inspection and tests that Proptec may in its absolute discretion consider necessary to determine whether to admit the claim.

14.3 Any return of Goods by the Customer will only be accepted by Proptec provided that:

14.3.1 Proptec has agreed in writing to accept a return of the Goods;

14.3.2 the Goods are returned to Proptec by the Customer within seven (7) days of receipt of the Goods by the Customer;

14.3.3 the Goods together with all packaging material, brochures and instruction materials are returned in the condition in which they were delivered;

14.3.4 any freight charges that are incurred in the return of the Goods are paid by the Customer.

14.4 Proptec may elect to repair or replace the Goods or grant a credit to the Customer in its absolute discretion.

14.5 Proptec will not be liable for Goods which have not been stored, used, handled or cared for in a proper manner. Including machinery & equipment. Rewiring or changing the function of machinery or equipment is not the responsibility of Proptec.

15. Default

15.1 Interest on any monies owed by the Customer to Proptec will accrue daily from the date when payment becomes due, until the date payment is made, at a rate of ten percent (10%) per annum (and at Proptec's sole discretion such interest will compound daily at such a rate).

15.2 In the event that the Customer's payment is dishonoured for any reason the Customer will be liable for any dishonour fees incurred by Proptec.

15.3 If the Customer defaults in payment of any monies due and payable to Proptec by the Customer, the Customer indemnifies Proptec from and against all costs and disbursements incurred by Proptec in pursuing the debt, including:

15.3.1 Proptec's collection agency costs actually incurred; and

15.3.2 Proptec's Solicitor and Client Legal Costs, which the parties agree are to be recoverable on an indemnity basis.

15.4 A statement in writing signed by an authorised officer of Proptec setting out the moneys due or owing to Proptec at the date of the statement shall be sufficient evidence of the amount so due or owing.

15.5 Without prejudice to any other rights or remedies Proptec may have against the Customer, if at any time the Customer is in breach of any obligation (including those relating to payment) Proptec may suspend or terminate the supply of Goods to the Customer and any of its other obligations under these Terms & Conditions. Proptec will not be liable to the Customer for any Loss the Customer suffers because Proptec has exercised its rights under this clause.

15.6 Without prejudice to Proptec's other remedies at law Proptec will be entitled to cancel all or any part of any Order of the Customer that has not been delivered and all monies owing to Proptec will, whether or not due for payment, become immediately payable in the event that:

15.6.1 any money payable to Proptec becomes overdue, or in Proptec's opinion the Customer will be unable to meet its payments as they fall due; or

15.6.2 the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

15.6.3 a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer; or

15.6.4 the Customer dies or ceases to be of legal capacity or otherwise becomes incapable of managing the Customer's own affairs for any reason.

16. Cancellation

16.1 Notwithstanding any other clause in these Terms & Conditions, Proptec may cancel any supply or delivery of Goods to which these Terms & Conditions apply at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice Proptec will repay to the Customer any sums paid in respect of the Price for Goods not delivered. Proptec will not be liable for any Loss whatsoever arising from such cancellation.

16.2 Any Order cancellations by a Customer must be made in writing in the same manner required by clause 3.1. In the event that the Customer cancels any Order the Customer will be liable for any Loss incurred by Proptec (including, but not limited to, any loss of profits) up to the time of cancellation.

16.3 Cancellation of Orders for Goods made to the Customer's specifications or non-catalogue items will not be accepted once an Order Confirmation has been delivered to the Customer.

16.4 In the event that an Order is cancelled by a Customer, the Customer may request that Proptec endeavour to onsell the Goods to third party customers which request may be granted or declined in Proptec's absolute discretion. The Price of any Goods successfully onsold shall be offset against any monies owed by the Customer to Proptec pursuant to clause 16.2 provided that the Customer pays to Proptec an administrative fee equal to fifteen percent (15%) of all Goods onsold.

17. Privacy Act 1988

17.1 The Customer and/or the Guarantors (in this clause referred to as the Customer) agree for Proptec to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by Proptec.

17.2 The Customer agrees that Proptec may exchange information about the Customer with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency for the following purposes:

17.2.1 to assess an application by the Customer;

17.2.2 to notify other credit providers of a default by the Customer;

17.2.3 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

17.2.4 to assess the creditworthiness of the Customer.

17.3 The Customer understands and agrees that the information exchanged can include anything about the Customer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the *Privacy Act 1988* (Cth).

- 17.4 The Customer consents to Proptec being given a consumer credit report to collect overdue payment on commercial credit (section 18K(1)(h) *Privacy Act 1988* (Cth)).
- 17.5 The Customer agrees that personal credit information provided may be used and retained by Proptec for the following purposes (and for other purposes as will be agreed between the Customer and Proptec or required by law from time to time):
- 17.5.1 the provision of Goods;
 - 17.5.2 the marketing of Goods by Proptec, its agents or distributors;
 - 17.5.3 analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods;
 - 17.5.4 processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
 - 17.5.5 enabling the daily operation of Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Goods.
- 17.6 Proptec may give information about the Customer to a credit reporting agency for the following purposes:
- 17.6.1 to obtain a consumer credit report about the Customer;
 - 17.6.2 allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.
- 17.7 The information given to the credit reporting agency may include:
- 17.7.1 personal particulars (including the Customer's name, address, previous addresses, date of birth, name of employer and driver's license number);
 - 17.7.2 details concerning the Customer's application for credit or commercial credit and the amount requested;
 - 17.7.3 advice that Proptec is a current credit provider to the Customer;
 - 17.7.4 advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
 - 17.7.5 that the Customer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
 - 17.7.6 information that, in the opinion of Proptec, the Customer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Customer's credit obligations);
 - 17.7.7 advice that cheques drawn by the Customer for one hundred dollars (\$100.00) or more, have been dishonoured more than once;
 - 17.7.8 that credit provided to the Customer by Proptec has been paid or otherwise discharged.
- 18. Force Majeure**
- 18.1 Notwithstanding any other provision of these Terms & Conditions, no default or failure to perform on the part of Proptec will be considered to be a breach of these Terms & Conditions if such default, delay or failure to perform is due to causes beyond the reasonable control of Proptec including but not limited to causes such as strikes, lock-outs or other labour disputes, civil disturbance, action of government authorities or suppliers, storms, floods, fires, earthquakes, acts of God, unavailability or delay in availability of materials, equipment or transport and default of a carrier.
- 19. Limitation of Liability**
- 19.1 Any cultural, varietal and descriptive information or other advice, recommendation, information, assistance or service provided by Proptec is intended as a general guide only and should not be relied upon and is provided without liability or responsibility (including for negligence) on the part of Proptec.
- 19.2 No liability will be accepted by Proptec for any inaccuracy in the information provided or the quality and performance of any Goods.
- 20. Customer Obligations**
- Customers who have ordered any product or service from Proptec Pty Ltd. Proptec will not be responsible for any loss, malfunction or other incurred due to the product or service. The Customer is liable for any Loss incurred.
- 21. General**
- 21.1 These Terms & Conditions are governed by the laws of the State of Queensland, Australia and the Customer irrevocably submit to the exclusive jurisdiction of the courts of that State.
- 21.2 Reference to any amount of money is a reference to the amount of lawful currency of the Commonwealth of Australia.
- 21.3 If any provision of these Terms & Conditions is deemed to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.
- 21.4 If any provisions of these Terms & Conditions are inconsistent with the PPSA or CCA, the PPSA or the CCA (as the case may be) will prevail to the extent of that inconsistency.
- 21.5 The Customer will not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Proptec nor to withhold payment of any invoice because part of that invoice is in dispute.
- 21.6 Proptec may assign, license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 21.7 Neither party will 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.
- 21.8 The failure by Proptec to enforce any provision of these Terms & Conditions will not be treated as a waiver of that provision, nor will it affect Proptec's right to subsequently enforce that provision.
- 21.9 These Terms & Conditions supersede all prior representations, arrangements, understandings and agreements between Proptec and the Customer and represents the entire and exclusive agreement between the parties.