

Terms and Conditions of Sale

1. OUTLINE

1.1 **Currency:** These Terms + Conditions apply to the supply of all Goods by us to you from the date that you accept these Terms + Conditions.

1.2 **Acceptance:** You accept these Terms + Conditions unless otherwise agreed in writing by Milltech when:

- 1.2.1 you submit an Order;
- 1.2.2 you accept delivery of, or any part of, the Goods of an Order; or
- 1.2.3 you make Payment, or partial Payment, for any Goods supplied by us,

whichever occurs first.

1.3 **Applicability:** These Terms + Conditions shall be incorporated into and form part of each contract constituted upon an accepted Order.

2. ORDERS, ORDER ACKNOWLEDGEMENTS AND TERMS AND CONDITIONS

2.1 An order or an offer to purchase can be made by the Customer in writing or verbally. An Order is accepted when the Customer receives from Milltech an acknowledgment of the Order from Milltech or delivery of the relevant Goods, whichever first occurs (**Order Acknowledgment**).

2.2 The Customer acknowledges that the Terms and Conditions constitute a security agreement, and that Milltech may register a financing statement in respect of the security interests provided for by the Terms and Conditions.

2.3 The Contract constitutes the entire agreement between Milltech and the Customer with respect to any Order. All prior negotiations, proposals, previous dealings, correspondence, trade custom and/or trade usage are superseded by and will not affect the interpretation of the Contract.

2.4 If at any time in relation to the supply of the Goods, the Customer provides, refers to, submits or otherwise uses terms and conditions other than the Terms and Conditions, such terms and conditions will not form part of, or be incorporated into, the Order or Contract.

3. PRICES

3.1 Unless otherwise agreed in writing, the price charged for the Goods shall be the price in Australian dollars:

3.1.1 exclusive of any transaction tax (transaction tax includes the goods and services tax as well as any identified or new transaction taxes that come into existence after the effective date of the Terms and Conditions); and

3.1.2 as per the price ruling as determined by Milltech at the date of delivery.

3.2 Any price indications or price lists are subject to alteration in accordance with the price ruling as at that date of delivery.

3.3 Where a product margin is included on the invoice for Goods the Customer will pay that product margin in addition to any quoted price.

3.4 Where a transaction tax applies to any supply made under the Terms and Conditions, Milltech may recover from the Customer an additional amount on account of that transaction tax.

3.5 Notwithstanding any provision in the Contract, subject to the Customer's rights under law including the ACL, Milltech reserves the right to increase the price of Goods after an Order Acknowledgment and prior to delivery of the Goods if the price increase results from an increase in the price of any inputs which comprise part of the Goods.

3.6 The Customer may upon the alteration of the price charged for the Goods in accordance with this clause 3, cancel any Order (or part thereof) at the new price within 7 days of Milltech providing notice of the change of price.

4. DELIVERY

4.1 Milltech will make all reasonable efforts to have the Goods delivered to the Customer or its designated agent as agreed between the parties (or if there is no specific agreement then at Milltech's reasonable discretion), but Milltech shall not be liable for:

- 4.2 any failure to deliver or delay in delivery for any reason; or
- 4.3 any damage or loss due to unloading or packaging; or
- 4.4 except to the extent that such damage was caused by the negligent act or omission of Milltech, damage to property caused upon entering premises to deliver the Goods.

4.5 Any delay does not give the Customer the right to cancel an Order or terminate the Terms and Conditions. Any costs incurred by Milltech due to any failure by the Customer to accept the Goods at time of delivery will be reimbursed by the Customer to Milltech. Except as required by law, Milltech will be under no obligation to accept Goods returned without prior agreement.

5. SUSPENSION

5.1 **Suspension due to instruction:** If as a consequence of an instruction from the Customer, Milltech delay or suspend (but not cancel) an Order or any part of an Order for a period of 90 days or more, Milltech may:

- 5.1.1 request the payment in full for all work in progress relating to the relevant Order at the time of suspension; and/or
- 5.1.2 vary the price for the uncompleted portion of the relevant Order.

5.2 **Suspension due to non-payment:** If the Customer fails to make a payment when due, Milltech may cancel or suspend any further despatch of Goods to the Customer under an Order and/or sell or otherwise dispose of any Goods which are the subject of any Order by the Customer.

6. DEFECTS AND RETURN OF GOODS

6.1 This clause 6 is subject to clause 17 and 18 and any other statutory or legal right whether under these Terms and Conditions or otherwise.

6.2 **Returns:** The Customer must inspect the Goods immediately upon Delivery or otherwise within 3 months of receipt of the Goods and may only return the Goods if:

- 6.2.1 they do not materially comply with the Order; or
- 6.2.2 in accordance with clause 17.3 and 17.4;
- 6.2.3 if permitted by law, including the ACL.

6.3 **Deemed acceptance:** The Customer will be deemed to have accepted the Goods if:

- 6.3.1 the Customer does not notify us within the time period specified in clause 6.2;
- 6.3.2 the Customer has put the Goods to commercial use; and/or
- 6.3.3 the Customer fails to respond to our declaration for acceptance (if any).

6.4 **Notification:** If the Customer wishes to return any Goods delivered to the Customer, the Customer must give to us:

- 6.4.1 notice within a reasonable time of the Customer's receipt of the Goods; and
- 6.4.2 the original Invoice details.

6.5 **Replacement or credit:** If Milltech accept the return of Goods from the Customer, Milltech will at its option either:

- 6.5.1 replace the returned Goods; or
- 6.5.2 give a credit or a refund for such Goods.

6.6 **Costs to return Goods:** Unless otherwise permitted by law, Milltech will pay for any transportation costs to return the Goods to Milltech.

6.7 **Payment for other Goods:** The Customer may not withhold any payment due to Milltech in respect of any other Goods pending the resolution of a return.

6.8 **Non-payment of account:** Milltech will not accept notifications under clause 6.4 if there are any amounts outstanding from the Customer.

7. PAYMENT

7.1 For so long as Milltech has agreed to provide credit to the Customer under the Terms and Conditions and has not exercised its powers to withdraw, refuse or suspend credit under clause 11.2 or 13.3 or otherwise, payment for the Goods must be made in full and received by Milltech within 30 days of the end of the month of delivery unless otherwise specified by Milltech on any statement of account or invoice or unless the Contract specifies otherwise. Payment is only received by Milltech when it receives cash or when the proceeds of other methods of payment are credited and cleared to Milltech's bank account. Milltech may set off any amount due and payable by Milltech to the Customer against any amount due and payable by the Customer to Milltech.

8. TITLE AND RELATED MATTERS

8.1 The legal and equitable title to the Goods will only be transferred from Milltech to the Customer when the Amount Payable has been reduced to zero.

8.2 Until the Amount Payable has been reduced to zero, the Customer holds the Goods as bailee for Milltech and a fiduciary relationship exists between the Customer and Milltech.

8.3 If there is any Amount Payable, until the Goods are sold in accordance with clause 6.7, or become an Accession or Processed Goods, the Customer shall:

- 8.3.1 keep the Goods separate and in good condition as a fiduciary of Milltech, clearly showing Milltech's ownership of the Goods;
- 8.3.2 keep books recording Milltech's ownership of the Goods and the Customer's sale or

otherwise of them in accordance with clause 8.6; and

8.3.3 if required by Milltech, deliver the Goods up to Milltech.

8.4 The Customer may only install or affix the Goods to other goods (so that they become an Accession to those other goods) or use or permit the Goods to be manufactured, processed, assembled, commingled or otherwise dealt with (so that they become Processed Goods) in the ordinary course of its normal business.

8.5 If the Customer is in Default, in addition to the provisions of clause 9.5 and Milltech's other rights under the Terms and Conditions, the PPSA or any other applicable law, Milltech may:

8.5.1 take possession of the Goods or any Processed Goods, wherever they are located;

8.5.2 remove any Goods which have become an Accession; and/or

8.5.3 enter upon the Customer's premises for that purpose; and/or

8.5.4 appoint any person to be a receiver of all or any of the Goods, Accessions, Processed Goods or other assets the subject of the security interests created by this document.

8.6 Despite clause 8.1, the Customer may sell the Goods, any Accession or any Processed Goods to a third party in the normal course of the Customer's business provided that the Customer holds the proceeds of sale on trust for Milltech to the extent of the Amount Payable.

8.7 Unless otherwise expressly agreed in writing, Milltech will allocate and apply amounts received from the Customer in the following order:

8.7.1 in or towards payment of any part of the Amount Payable which is not part of the purchase price of any Goods, in the order in which those amounts were incurred; and

8.7.2 secondly, in or towards payment of the purchase price of Goods in the order in which those Goods were invoiced.

8.8 This order of allocation and application will apply notwithstanding any instruction, request or appropriation of the Customer as to the way in which a payment made by it should be applied by Milltech, or any condition attached by the Customer to any payment made by it.

9. SECURITY INTEREST, CHARGE AND MORTGAGE

9.1 The Customer grants to Milltech a security interest in the Goods to secure payment of the Amount Payable. The security interest:

9.1.1 extends to and continues in all proceeds, Accessions and Processed Goods; and

9.1.2 is a purchase money security interest to the extent to which it secures payment of that part of the Amount Payable which comprises the aggregate unpaid purchase price of Goods.

9.2 The Customer shall provide Milltech with any information required for Milltech to register a financing statement or a financing charge statement with respect to relevant security interests on the PPSR.

9.3 The Customer will ensure that, as far as is reasonably practicable, the Goods are identifiable and distinguishable from any other goods or products that may be in the Customer's possession.

9.4 Until the security interest in the Goods has been extinguished, if:

9.4.1 the Customer is in default pursuant to clause 11; or

9.4.2 the Customer is in breach of the Terms and Conditions,
Milltech may, as it sees fit and without notice to the Customer,
A take action in accordance with clause 8.5, or
B seek any and all remedies provided under Chapter 4 of the PPSA or any other remedies provided at law or in equity.

9.5 In addition to any rights given to Milltech under Chapter 4 of the PPSA and clause 8.5 the Customer irrevocably grants to Milltech the right to:

9.5.1 demand the immediate return of the Goods to Milltech;

9.5.2 enter the Customer's premises to search for a seize the Goods without notice or liability to the Customer; and

9.5.3 retain, sell or otherwise dispose of the Goods in any it sees fit; and

9.5.4 the Customer indemnifies, and keeps indemnified Milltech against any claim (including in negligence) in respect of any damage to the property of, or the premises occupied by, the Customer or any consequential loss caused by another party arising relating to searching for a seizing any Goods in accordance with this clause.

9.6 The Customer may sell or deal with any of the secured Goods (including accessions) in respect of which full payment has not been received unless Milltech, in its sole discretion, directs otherwise.

9.7 The Customer shall pay all costs incurred by Milltech (including costs on a solicitor-client basis and debt collector's costs) arising out of the provisions of this clause, including costs in relation to the enforcement of its rights under this clause.

9.8 The security interest is extinguished only if:

9.8.1 all amounts payable in relation to the Goods have been paid in full; and

9.8.2 all obligations under this clause have been satisfied by the Customer, including the obligation to pay costs as set out in clause 9.7.

9.8.3 The Customer must not do or permit anything to be done that may result in the purchase money security interest granted to Milltech ranking in priority behind any other security interest.

9.9 The Customer charges in favour of Milltech all of its interest in all present and future real property of the Customer to secure the performance of the Customer's obligations under the Contract, including payment of the Amount Payable. The Customer acknowledges that Milltech has a caveatable interest in any real property of the Customer under this clause and may lodge a caveat over that property. Upon demand by Milltech, the Customer agrees to immediately execute a mortgage on terms satisfactory to Milltech to more particularly describe the security interest conferred by this clause. Should the Customer fail within a reasonable time of such demand to execute that mortgage, then the Customer irrevocably appoints Milltech as its attorney with authority to do on its behalf anything that it may lawfully authorise an attorney to do including, without limitation, to make, sign, execute,

seal and deliver any document and to take possession of, use, sell or otherwise dispose of any real property of the Customer.

9.10 The Customer acknowledges due notice of the provisions of this clause with acceptance of the Terms and Conditions.

10. CONTRACTING OUT OF THE PPSA

10.1 The Customer:

10.1.1 waives the right under section 157 of the PPSA to receive a copy of the verification statement verifying registration of a financing statement or a financing change statement relating to a security interest created under the Contract; and

10.1.2 contracts out of its rights to receive any other notice or statement under any other provision of the PPSA (including for the avoidance of doubt, any of the provisions specified in paragraph (b)).

10.2 To the fullest extent permitted by the PPSA, the parties agree to contract out of sections 95, 117, 118, 120, 121(4), 125, the second sentence of section 126(2), sections 129(2), 129(3), 130, 132(3)(d), 132(4), 135, 142 and 143, which sections (or parts of sections) shall not apply.

11. DEFAULT

11.1 A party will be in Default if:

11.1.1 it breaches a material term of the Contract and such breach is not remedied within 14 days of receiving notice from the other party requiring it to do so, unless such breach arises out of the supply of defective Goods, in which case Milltech shall remedy the breach within such time as is reasonable in the circumstances;

11.1.2 being a body corporate it becomes an externally-administered body corporate or has an application for winding up filed against it;

11.1.3 in the case of the Customer being an individual, it commits an act of bankruptcy or becomes an insolvent under administration;

11.1.4 in the case of the Customer, payment for the Goods has not been received by Milltech by the due date for payment; or

11.1.5 in the case of the Customer, any representation or warranty made by it in or in connection with the Contract, or any information provided by it to Milltech in or in connection with the Application, is incorrect, misleading or deceptive (whether by omission or otherwise) in any material respect; or

11.1.6 in the case of the Customer, Milltech forms the opinion in its absolute discretion that the Customer's creditworthiness or credit standing alters from that indicated in its Application.

11.2 If a party Defaults, the other party may:

11.2.1 treat an Order Acknowledgement or the whole of the Contract as repudiated and sue for breach of contract; and/or

11.2.2 being Milltech, refuse to supply any Goods to the Customer on credit or at all; and/or

11.2.3 being Milltech, claim the return of any Goods in the Customer's possession where title has not passed to the Customer or exercise any other right or remedy available to it under the Contract, the PPSA or any

- other applicable law, including to enforce the security interests created by the Contract; and/or
- 11.2.4 being Milltech, by notice to the Customer declare all monies owing by the Customer to Milltech on any account immediately due and payable (including the Amount Payable).

12. RISK

12.1 Risk in the Goods passes to the Customer upon delivery (including all risks associated with unloading) or upon title in the Goods passing to the Customer, whichever is the earlier.

13. CREDIT

13.1 Any agreement by Milltech to grant the Customer credit upon the Terms and Conditions has been or will be made on the basis of a credit application and such other documents and information as may be required by Milltech.

13.2 Until Milltech grants the Customer credit by notice in writing, or if having granted credit, Milltech exercises its powers to withdraw, refuse or suspend credit under clause 11.2 or 13.3 or otherwise under the Terms and Conditions, Milltech will only supply Goods to the Customer on the basis of cash in advance.

13.3 The granting of credit does not oblige Milltech to extend any particular amount of credit to the Customer and Milltech may withdraw, refuse, suspend or limit credit to the Customer at any time, in its absolute discretion, without notice or providing any reason.

13.4 The Customer must notify Milltech in writing if there is any change in the shareholding or ownership of the Customer or any material change in the Customer's financial position.

14. INTELLECTUAL PROPERTY

14.1 The Customer warrants to Milltech that all documents provided by the Customer are accurate and that Milltech is entitled to use all such documents for the purposes of the Contract and that such use does not infringe any third party's intellectual property rights.

14.2 The Customer indemnifies Milltech against all claims and all losses and damages incurred by Milltech as a result of documents provided by the Customer to Milltech for the purposes of or in the course of the supply of the Goods breaching a third party's intellectual property rights.

14.3 If the Customer receives any confidential information from Milltech the Customer may not use or disclose such information unless it receives the prior written consent of Milltech, such information enters the public domain (other than as a result of a breach of this clause) or the use or disclosure is required by law.

14.4 All of our intellectual property rights in and relating to production, development and supply of the Goods remains our property and shall not be exploited, transferred, assigned, licensed, reproduced, disclosed or otherwise given to any other person by the Customer without Milltech's prior written consent or as permitted by the Terms and Conditions or a relevant law which is not hereby lawfully excluded.

15. FORCE MAJEURE

15.1 Milltech is not liable for failure to perform its obligations under the Contract to the extent and for so long as its performance is prevented or

delayed without substantial fault or negligence by Milltech because of circumstances outside Milltech's control, failure of Milltech's machinery, or failure of a supplier to Milltech, provided that Milltech gives notice to the Customer of the delay and uses reasonable efforts to remedy the cause of the delay quickly.

16. REPRESENTATIONS AND FITNESS FOR PURPOSE

16.1 Except as expressly provided to the contrary in the Contract, all representations, warranties, guarantees and implied terms or conditions in relation to the Goods (whether implied or otherwise) are hereby excluded to the maximum extent permitted by law.

16.2 The Customer agrees that if it is aware (or should be aware) that the Goods, the subject of an Order, are for a particular purpose (including, but not limited to, use as a component part of another product) or are required to possess special or unique characteristics, the Customer will clearly specify that purpose or those characteristics in any such Order. The Customer agrees that, unless expressly agreed by Milltech in writing, it has made its own enquiries in relation to the suitability of the Goods and does not rely on representations by Milltech in relation to their suitability for a particular purpose or any steps which may need to be taken in relation to their use.

17. LIMITATION OF LIABILITY

17.1 Milltech's liability to the Customer (and any party claiming through the Customer against Milltech) for any claim for loss or damages (including legal expenses) made in connection with the Contract (including the supply of Goods described in the Contract) whether in contract, tort (including negligence), under statute, in equity or otherwise shall be strictly limited as follows (except to the extent that the law prohibits such a limitation):

17.1.1 for any liability arising from Goods not meeting the specification or which are said to be otherwise defective or deficient, Milltech's liability is limited to the cost of replacement of those Goods as soon as reasonably practicable, or the repair of those Goods or the repayment (or allowance) of the invoice price of those Goods (at the option of Milltech);

17.1.2 for any liability arising from the services forming part of the Goods not meeting the scope or which are said to be otherwise defective or deficient, Milltech's liability is limited to the provision of the services again or payment of the cost of having the relevant services provided (at the option of Milltech);

17.1.3 for any liability that does not fall within the scope of clauses 17.1.1 or 17.1.2, Milltech's liability for any loss or damage arising from or caused in any way by Milltech, the Goods it supplies or the Contract is excluded (to the maximum extent permitted by law).

17.2 Milltech shall not be liable, to the maximum extent permitted by law, for any indirect, special or consequential loss or damage of any nature whatsoever resulting from or caused in any way by the Goods it supplies, where "indirect, special or consequential loss or damage" includes:

17.2.1 any loss of income, profit, production, contract, customers, business opportunity or business;

17.2.2 any loss of goodwill or reputation;

17.2.3 any loss of value of intellectual property; or

17.2.4 any loss or damage resulting from the loss or damage to goods other than the Goods.

17.3 Any claim by the Customer in respect of defective, non-conforming or damaged Goods must be made in writing within 3 months of the delivery of the Goods, unless a longer period is expressly agreed to by Milltech in writing.

17.4 Despite any other provision of the Contract, Milltech is not liable, to the maximum extent permitted by law, for:

17.4.1 the cost of installation of replacements for Goods not meeting the specification or which are said to be otherwise defective or deficient; or

17.4.2 defects or deficiencies in Goods caused by improper installation or maintenance of Goods or related components or normal wear and tear and damage.

18. CUSTOMER SUPPLIED MATERIAL

18.1 Property and materials supplied by or for and on behalf of the Customer (including property or materials in transit) are at the Customer's risk and Milltech shall not be liable in any way whatsoever for loss or damage to such property or material. It shall be the responsibility of the customer to insure such property or material.

18.2 The Customer shall not, without the consent of Milltech, move in or in any way interfere with the property and materials left with Milltech whilst in Milltech's possession and control.

18.3 All equipment, materials, property, plans or specifications furnished by or on behalf of the Customer to Milltech for the purpose of performing services or manufacturing of products or goods by the Milltech shall be of suitable specification and quality for the performance of such services or the manufacture of such products or goods.

18.4 Milltech shall not be liable in any way whatsoever where materials, equipment, goods, plans or specifications supplied for on behalf of the Customer are defective or unsuitable.

18.5 Milltech shall not be liable in any way whatsoever for any damage caused to Customer Supplied Material while carrying out services with due care and skill.

19. WAIVER

19.1 Except as expressly set out in the Terms and Conditions, a party waives a right under the Contract only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

20. SEVERANCE

20.1 If a provision of the Contract would, but for this clause, be unenforceable:

20.1.1 the provision must be read down to the extent necessary to avoid that result; and

20.1.2 if the provision cannot be read down to that extent, it must be severed without altering the validity and enforceability of the remainder of the Contract.

21. VARIATION AND NOTICES

21.1 Milltech may at any time vary the Terms and Conditions applicable to future Orders and may notify the Customer of these changes or provide any other notice under or in connection with the Terms

and Conditions by email, facsimile, post or, in the case of a variation of the Terms and Conditions, by publishing the revised Terms and Conditions or notice on its website. If Milltech publishes the revised Terms and Conditions on its website, it may (but is not obliged to) notify the Customer that it has done so on any invoice or Order Acknowledgement.

21.2 Notices given by Milltech will be deemed to be received:

21.2.1 if given by email, on being sent, provided the notice is sent to the email address of an officer or employee of the Customer responsible for placing or administering orders for Goods and no "out of office" or other automated reply is received indicating that the message has not been or will not be received or read by the intended recipient;

21.2.2 if given by facsimile transmission to a facsimile number shown in the application for credit (or any other number provided by the Customer) by production by Milltech of a copy of the facsimile transmission bearing the time and date of dispatch, on that date and at that time; and

21.2.3 if given by post, on the fifth day after posting.

21.3 The Customer agrees to regularly check Milltech's website for any notices of changes to the Terms and Conditions and to accept any notices from Milltech as agent for any guarantor.

22. COSTS

22.1 The Customer must pay Milltech all costs and expenses incurred by Milltech in connection with the Contract including legal expenses (on a full indemnity basis), stamp duty (including fines and penalties) and costs incurred or payable by Milltech in connection with registering, maintaining or releasing any security interest, charge, mortgage or caveat in connection with the Contract, or the recovery of the Amount Payable or in otherwise enforcing Milltech's rights against the Customer under the Contract. The costs of registering any PPSA financing statement will be paid by the Customer and may be invoiced or debited against the Customer's credit account.

23. APPLICABLE LAW

23.1 The Contract is governed by, and the Customer submits to the law of the State of New South Wales (or any other State or Territory nominated by Milltech). The courts of that State or Territory have non-exclusive jurisdiction in connection with the Contract. The Sale of Goods (Vienna Convention) Act 1986 (New South Wales) (and any similar legislation relating to the Vienna Convention in other States or Territories) does not apply to the Contract.

24. ASSIGNMENT

24.1 Milltech may assign its rights or novate its rights and obligations under the Contract (in whole or in part) to any person without the consent of the Customer. In the event of a novation, the Customer may, if it has reasonable grounds to believe that the novatee will not comply with the Contract, by written notice given within 30 days of receiving notice of the novation terminate any Order which has not been completed and which was accepted prior to the novation. The Customer may not assign or otherwise transfer its rights under the Contract without prior notice to and consent from Milltech. The Customer must promptly notify Milltech in

writing of any change to its registered address or other contact details provided to Milltech.

25. STANDARD GRADES OF MATERIALS AND MEASURES

25.1 Subject to clause 25.2, Milltech will use its reasonable endeavours to:

25.1.1 supply Goods having the grade of material specified in the Order Acknowledgment (if applicable); and

25.1.2 ensure that any grade of material as specified in the Order Acknowledgment will, unless otherwise agreed, be in accordance with applicable Australian Standards and/or as detailed in any current, relevant price schedules, product handbooks or other product literature of Milltech.

25.2 Unless otherwise agreed in writing:

25.2.1 all Goods will be supplied and delivered in accordance with Milltech's standard practice and shall be subject to Milltech's normal tolerances, limitations and variations of the following: dimension, weight, shape, composition, mechanical properties, structure, quality and service conditions;

25.2.2 any statements made by Milltech as to weight, length, quantity or other characteristics of Goods are approximate and Milltech may supply Goods on an actual or calculated basis (calculated in accordance with applicable Australian standards); and

25.2.3 Milltech's statements as to weight, length, quantity or other characteristics are final (in the absence of manifest error) and will not be contested by the Customer unless the Customer has given Milltech written notice of any error within 14 days of delivery and a reasonable opportunity to examine and re-test the Goods before they are used or dealt with.

26. SHORTAGE OR OVERSUPPLY

26.1 The Customer will inspect and check all Goods received as soon as practicable upon unloading.

26.2 No claim by the Customer for shortage or oversupply of Goods may be made unless such claim is notified to Milltech with 48 hours of such inspection.

26.3 The tolerance for quantity supplied against orders is:

26.3.1 +/- 10% for orders up to 10 tonnes

26.3.2 +/- 1 tonne for orders over 10 tonnes.

26.4 Milltech will endeavour to rectify any shortages as soon as practicable after receiving notice but will not be liable for or in respect of such rectification.

27. INTERPRETATION + DEFINITIONS

27.1 **Personal pronouns:** Except where the context otherwise provides or requires:

27.1.1 the terms **we, us or our** refers to **Milltech Pty Ltd** (ABN 44 002 299 158); and

27.1.2 the terms **you or your** refers to any person or entity that places an Order with us and agrees (by conduct, notice or otherwise) to be bound by these Terms, including any related company, related party, officer and authorised person of the relevant person.

27.2 **Defined terms:** In these Terms, unless otherwise provided, the following terms shall have their meaning as specified:

Accession means any Goods which are installed in or affixed to other goods;

Amount Payable means, at any time, all amounts payable by the Customer to Milltech Pty Ltd (ABN 44 002 299 158) and its related bodies corporate (within the meaning of the Corporations Act 2001 (Cth)) at that time (whether or not those amounts have become due for payment under clause 7 or any other provision of the Terms and Conditions) in connection with the Goods or the Contract (including, without limitation, any invoiced amount, interest, fees, costs or expenses);

ACL means the Australian Consumer Law under the *Competition and Consumer Act 2010* (Cth) as amended;

Customer means the customer specified in an application for commercial credit (or if there is no application, the person placing the Order, or on whose behalf the Order is placed, with Milltech);

Default is defined in clause 11;

Default Interest means as defined in clause 8;

Contract means the Terms and Conditions and, for an Order, the relevant Order Acknowledgment;

Goods means any goods, products, services or materials supplied or to be supplied by Milltech at any time and from time to time including, without limitation, any goods specified in an Order Acknowledgment or invoice;

Milltech means Milltech Pty Ltd (ABN 44 002 299 158) and its related bodies corporate (within the meaning of the Corporations Act 2001 (Cth)) and for each Order means the company (being Milltech Pty Ltd or one of its related bodies corporate) that issues the relevant Order Acknowledgment;

Order is an order or offer to purchase described in clause 2.1;

Order Acknowledgment is defined in clause 2.1;

Processed Goods means Goods which after their delivery become part of a product or mass by being manufactured, processed, assembled, commingled or otherwise dealt with in such a way that their identity is lost in the product or mass;

PPSA means the Personal Property Securities Act 2009 (Cth);

PPSR means the Personal Property Securities Register;

Terms and Conditions means the terms and conditions set out in this document, as modified or amended in relation to a particular Order by a written Order Acknowledgment;

the terms "financing statement", "proceeds", "purchase money security interest", "security agreement", "security interest" and "verification statement" have the respective meanings given to them under, or in the context of, the PPSA;

SGA means the *Sale of Products Act 1923* (NSW) as amended;

unless otherwise stated, an expression used or defined in the Corporations Act 2001 (Cth) has the same meaning in the Terms and Conditions; and words indicating the singular include the plural and vice versa.