Pipe King Pty Ltd - Terms and Conditions of Sale

1 Definitions and interpretation

1.1 In these terms and conditions:

Agreement means the agreement between Pipe King and the Purchaser comprising these terms and conditions, any Order accepted by Pipe King and any trade credit contract between the parties (including any credit application completed by the Purchaser).

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

Consumer means a "Consumer" as that term is defined in section 3 of the Australian Consumer Law.

Consumer Contract means a contract for the supply of goods or services to a Consumer.

Consumer Guarantee means a guarantee provided under Division 1 of Part 3-2 of the Australian Consumer Law.

Loss means any loss, liability, cost, expense, damage, charge, penalty, outgoing or payment.

Order has the meaning given in clause 3.1.

Order Confirmation has the meaning given in clause 3.1.

Pipe King means Pipe King Pty Ltd (ABN 54 082 877 610).

Products means all goods offered to or supplied to the Purchaser by Pipe King.

Purchaser means any person or entity to whom Pipe King supplies or offers to supply Products.

Related Bodies Corporate has the same meaning as in section 50 of the Corporations Act 2001 (Cth).

Standard means an applicable standard or specification for a particular Product which is published by Pipe King or mandatory under applicable laws or both.

Taxes has the meaning given in clause 4.3(b).

Warranty Information Sheet means each document which forms part of these terms and conditions and which contains information Pipe King provides to Purchasers in respect of its products from time to time who are also Consumers under applicable provisions of the Australian Consumer Law.

2 Application of terms and conditions

2.1 Nothing in these terms and conditions excludes, restricts, modifies or limits the application of the Australian Consumer Law to the extent it applies to any transaction arising under these terms and conditions.

2.2 These terms and conditions apply to:

(a) all quotations, offers and purchase orders made or accepted by Pipe King (in accordance with clause 3.1 or 3.2) and;

(b) all Products sold or otherwise supplied by Pipe King to a Purchaser where the parties have agreed that these terms and conditions apply.

2.3 So far as applicable, these terms and conditions also apply to the provision of any services accompanying the supply of, or provided in relation to, Products under clause 2.2 and, where the context allows, any reference to the sale or supply of Products includes the provision of such services.

2.4 These terms and conditions may not be varied or cancelled unless agreed in writing by Pipe King and the Purchaser.

2.5 Other than these terms and conditions, any conditions or other terms which are set out in any offer, purchase order or other document submitted by or on behalf of the Purchaser are expressly excluded.

3 Orders

3.1 Each Purchaser's order must be in writing (**Order**) and will be binding on Pipe King only if Pipe King gives written acknowledgement of its acceptance to the Purchaser on these terms and conditions (**Order Confirmation**).

3.2 Despite clause 3.1, if Products are supplied by Pipe King without an Order Confirmation, Pipe King's conduct in accepting and fulfilling an Order will be deemed to constitute the Order Confirmation and Pipe King's invoice will constitute evidence of the Order Confirmation.

3.3 If Pipe King does not provide an Order Confirmation to the Purchaser, or perform the Order (in accordance with clause 3.2), within 30 days of the date of the Order, Pipe King will be deemed to have rejected the Order.

4 Prices and payment

4.1 The prices of the Products are those set out in Pipe King's then-current applicable price list at the date the Order is submitted, unless otherwise agreed by Pipe King and the Purchaser (such as in a current pricing file prepared by Pipe King for the Purchaser or in a current quote provided by Pipe King to the Purchaser). Pipe King reserves the right to change prices for its Products and any applicable price list (by giving no less than 30 days' notice) by way of email but no such change will apply to any Order which has already been provided by the Purchaser to Pipe King.

4.2 If at any time the credit standing of the Purchaser, in the opinion of Pipe King, is at risk or has been impaired then as a condition of accepting any Order Pipe King may require payment of the price in full prior

to Pipe King delivering the relevant Products or providing the Services and the Purchaser may withdraw their Order if they do not agree to pay the price in full prior to Pipe King delivering the relevant Products or providing the Services.

4.3 Unless otherwise specified, all prices are:

(a) inclusive of delivery costs to the Purchaser's nominated store or delivery point within Australia;

(b) exclusive of any direct delivery costs applicable to deliveries made to locations other than the Purchaser's nominated store or delivery point, which will be quoted separately by Pipe King; and

(c) exclusive of all taxes, including goods and services tax (**GST**), sales, consumption and value added taxes, duties, excises, imposts and levies relating to the supply or use of the Products (**Taxes**) in accordance with clause 5.

4.4 Unless otherwise agreed or specified by Pipe King and subject to clause 4.2, payment is due in full within 30 days of the end of the month of the date of the invoice.

4.5 Pipe King may at its discretion charge a minimum order and administration fee for any orders below $400 excluding GST.

4.6 Subject to the terms of any trade credit contract between Pipe King and the Purchaser, Pipe King may refuse, extend or withdraw credit to the Purchaser at any time and on such terms as it considers appropriate.

4.7 The Purchaser will pay all amounts due under these terms and conditions to Pipe King by direct transfer to Pipe King's nominated bank account or in any other manner reasonably specified by Pipe King from time to time.

4.8 Pipe King may charge interest up to a rate which is 2% higher than that applied to commercial overdraft by Pipe King's principal bank on the amount outstanding after expiry of the due date for payment until it has been paid in full.

4.9 If payment is not made in accordance with clause 4.2, 4.4, 4.5 or 4.7 and the Purchaser has not remedied the failure within [7] days of receiving notice of the failure Pipe King may suspend or cancel an Order or delivery of any Products until alternative arrangements as to payment satisfactory to Pipe King have been agreed.

4.10 Despite any other provision of this clause 4 and subject to clause 5, the Purchaser must pay or reimburse Pipe King all Taxes incurred by Pipe King.

5 GST

5.1 Unless otherwise expressly stated in writing in these terms and conditions, all amounts payable by the Purchaser in connection with these terms and conditions do not include an amount for GST.

5.2 If GST is payable on any supply made by Pipe King under these terms and conditions, the Purchaser must pay to Pipe King, in addition to and at the same time as the payment for the supply, an amount equal to the amount of GST on the supply.

5.3 Where the Purchaser is required by these terms and conditions to reimburse or indemnify Pipe King for any Loss or other amount incurred, the amount to be reimbursed or paid will be reduced by the amount of any input tax credit that Pipe King will be entitled to claim for the Loss or amount incurred and increased by the amount of any GST payable by Pipe King in respect of the reimbursement or payment.

5.4 This clause does not merge on completion or termination of this Agreement.

5.5 In this clause, words and expressions which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended, varied or replaced from time to time) have the same meaning given to them by that Act.

6 Cancellation and variation of Orders

6.1 Notices of cancellation or variation of Orders submitted by the Purchaser must be in writing and, subject to the Purchaser's right to withdraw under clause 4.2, may be accepted or rejected by Pipe King.

6.2 If a Purchaser gives a notice under clause 6.1 and the notice is accepted by Pipe King, without prejudice to its other rights, Pipe King reserves the right to charge for all work it has performed in fulfilling the Order or, if the work is substantially complete or the Products were made to order or are otherwise not able to be immediately sold to another customer at an equivalent price, to charge for the full price for the Products that are the subject of the Order.

6.3 Pipe King will not be liable for, and the Purchaser will be not entitled to cancel, any Orders due to any delay or failure by Pipe King to perform its obligations under these terms and conditions caused by any event or circumstance beyond Pipe King's reasonable control as described in clause 16.

7 Delivery and return

7.1 Subject to clause 4.5, Pipe King will deliver the Products to the Purchaser by means of Pipe King's preferred carriers at Pipe King's cost. If the Purchaser wishes the Products to be delivered by another carrier, that delivery will be at the Purchaser's cost and risk.

7.2 Unless Pipe King otherwise agrees, and subject to any additional charges incurred in delivery and transport, delivery of Products will be made to the delivery point in Australia specified in the applicable Order.

7.3 Stated delivery times are no more than an estimate by Pipe King and will not be binding upon Pipe King. Pipe King is not liable for any costs or other Loss caused by reason of any delay in delivery.

7.4 Pipe King reserves the right to make partial deliveries against an Order and invoice each partial delivery separately, unless otherwise agreed in writing. The Purchaser cannot reject goods on the basis of partial or late delivery.

7.5 If the quantity of Products delivered does not correspond with the quantity stated in an Order the Purchaser will only be liable to pay for the quantity delivered (in the case of short-delivery) and for the contract price (in the case of over-delivery), provided that, subject to clauses 12.1 and 12.2, in no event will such short or over-delivery entitle the Purchaser to damages or give the Purchaser a right to rescind the Agreement.

7.6 In the case of an over delivery, if the Purchaser does not wish to acquire the quantity of Products that exceeds the amount stated in the Order (**Surplus Products**), the Purchaser must give Pipe King written notice within two Business Days from the date of delivery and Pipe King will collect the Surplus Products at Pipe King's cost.

7.7 Any Surplus Products delivered to the Purchaser will remain the property of Pipe King and the Purchaser will take all necessary precautions for the safe custody and protection of such Surplus Products until the time of their collection by Pipe King.

7.8 If the Purchaser refuses or fails to take delivery of Products (excluding circumstances of over delivery), Pipe King may, at its discretion and without prejudice to any of its other rights, store those Products at the Purchaser's risk and expense.

7.9 Except as specified in clause 7.5 and subject to clauses 12.1 and 12.2, Products may only be returned to Pipe King with its prior written consent and subject to the following:

(a) all returned Products must be delivered to Pipe King, within 6 months of their receipt by the Purchaser in good order and condition, unused and in their original packaging together with a dispatch note stating the original Order and invoice numbers and the date of purchase. The cost of return:

(i) may be borne at the Purchaser if the return relates to a commercial claim; or

(ii) is borne by Pipe King if the return relates to delivery and pricing dispute, or a warranty claim;

(b) Pipe King may at its discretion charge the Purchaser a restocking fee of up to 15% of the original net invoice price of any Products returned to it pursuant to this clause 7.9 as the result of a change of mind; and

(c) Pipe King will generally not accept for return Products which have been manufactured to order unless those Products do not conform to an applicable Standard, are otherwise proven to Pipe King's satisfaction to be defective or are supplied under a Consumer Contract and the provisions of clause 12 apply.

8 Passing of risk and title

8.1 Risk in the Products will pass to the Purchaser when the Products are tendered for delivery at the delivery point specified in an Order or when the Products are collected by the Purchaser for loading into the vehicle of the Purchaser, its carrier or other agent.

8.2 Legal and beneficial title (ownership) in a Product will remain with Pipe King until all amounts in respect of the Products under the applicable Order have been paid in full.

8.3 Until such time as legal and beneficial title in the Products passes to the Purchaser, the Purchaser will:

(a) store the Products in a manner which makes them readily identifiable as the property of Pipe King;

(b) hold the Products as bailee of Pipe King;

(c) keep, and provide Pipe King at any time on reasonable request, proper and complete stock records covering the receipt, identification, storage, location, sale and movement of the Products; and

(d) keep the Products insured against theft, damage and destruction.

8.4 Despite clauses 8.2 and 8.3 the Purchaser is entitled, until notified by Pipe King or until the happening of any of the events set out in clause 8.7, to sell the Products in the normal course of its business, in which case the proceeds of resale must be held in trust for Pipe King in a separate account.

8.5 Pipe King is entitled, at any time while any debt remains outstanding by the Purchaser beyond its due date of payment in respect of the amounts referred to in clause 8.2, to notify the Purchaser of its intention to take possession of the Products and for this purpose to enter upon the land and buildings of the Purchaser with all necessary equipment to take possession of the Products.

8.6 On receipt of notice from Pipe King or on the happening of any of the events set out in clause 8.7, the Purchaser's authority to sell or otherwise deal with the Products as set out in clause 8.4 is withdrawn.

8.7 The Purchaser will give immediate notice to Pipe King of:

(a) any notice to the Purchaser that a receiver or manager is to be or has been appointed over its assets or any part of its business or undertakings;

(b) any notice to the Purchaser that a petition to wind up the Purchaser is to be or has been presented or any notice of a resolution to wind up the Purchaser;

(c) a decision by the Purchaser that it intends to make any arrangements with its creditors; or

(d) any act of bankruptcy by the Purchaser as defined in section 40 of the Bankruptcy Act 1966 (Cth).

9 Personal Property Securities Act 2009 (Cth) (PPSA)

9.1 The Purchaser acknowledges and agrees that:

(a) by agreeing to these terms and conditions (in particular, by virtue of clause 8) the Purchaser grants a security interest pursuant to the PPSA to Pipe King in any Products supplied by Pipe King to the Purchaser and any proceeds of the sale of such Products;

(b) Pipe King may register on the Personal Property Securities Register ("PPS Register") a security interest or purchase money security interest ("PMSI") in the Products and any proceeds of the sale of such Products; and

(c) Pipe King may, on demand, obtain reimbursement from the Purchaser for all costs and expenses incurred by Pipe King in relation to registering, maintaining or releasing any financing statement or financing change statement (each as defined in the PPSA) in respect of any security interest or PMSI under these terms and conditions.

9.2 The Purchaser undertakes:

(a) promptly to do all things, sign any further documents and provide any further information (which information the Purchaser warrants to be complete, accurate and up-to-date in all respects) which Pipe King may reasonably require to enable it to perfect, and maintain the perfection of, its security interest or PMSI (including by registration of a financing statement or financing change statement on the PPS Register);

(b) not to register a financing statement or financing change statement in respect of the Products without Pipe King's prior written consent; and

(c) to give Pipe King no less than 14 days' prior written notice of any proposed change in the Purchaser's name, ACN, ABN, address or contact details.

9.3 The Purchaser waives its right under section 157 of the PPSA to receive notice of any verification of any registration pursuant to the PPSA.

9.4 To the extent the law permits:

(a) for the purposes of sections 115(1) and 115(7) of the PPSA:

(i) Pipe King need not comply with sections 95, 118, 121(4), 125, 129(2), 129(3), 130, 132(3)(d), 132(4) or 135 of the PPSA; and

(ii) sections 142 and 143 of the PPSA are excluded;

(b) for the purposes of section 115(7) of the PPSA, Pipe King need not comply with sections 132 and 137(3) of the PPSA; and

(c) the Purchaser agrees not to exercise its rights to make any request of Pipe King under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

10 Inspection and return of Products

10.1 The Purchaser must inspect all the Products on delivery for any damage, or any issues with the Products.

10.2 If the Purchaser identifies an issue with the Products, the Purchaser must submit a warranty return application to accountsreceivable@app.net.au (**Claim**) within 14 days of the date when such issue appeared or ought to have been discovered. On receipt of the Claim, a goods return authority (**GRA**) will be issued and the Purchaser must organise the return of the Products (at Pipe King's cost), in full with a copy of the GRA.

11 Warranty for defective Products

11.1 Subject to clauses 12.1 and 12.2, Pipe King undertakes that if Products are found upon inspection by or on behalf of Pipe King that do not conform to a Standard or are otherwise defective in materials or workmanship, Pipe King will, at its option:

(a) replace or repair the Products;

(b) bring the Products into conformity with the Standard;

(c) take back the Products found not to conform to the Standard or which are otherwise defective and refund the appropriate part of the purchase price; or

(d) pay for the cost of replacement or repair of the Products.

provided that the liability of Pipe King will never exceed the purchase price of the Products.

11.2 Subject to clauses 12.1 and 12.2, if any Products are damaged during transportation or delivery by Pipe King's carrier or do not comply with the description on the relevant Order, Pipe King will accept return of those Products and will credit the Purchaser with any amount which it has paid for them.

11.3 Clauses 11.1 and 11.2 apply only if:

(a) any alleged defect or damage to the Products occurred within 12 months of the date of their installation or 18 months from the date of their purchase from Pipe King, whichever is the earlier;

(b) the Products have been properly handled, stored and maintained and any instructions by Pipe King in relation to the Products and their installation and use (including operating instructions which specify applicable operating and environmental conditions for particular Products) have been fully observed;

(c) the Purchaser gives written notice to Pipe King of the alleged defect in respect of the Products, such notice to be received by Pipe King within 14 days of the date when such defect appeared or ought to have been discovered;

(d) the Products, being Products of the kind referred to in clause 11.2, are unsoiled and returned unopened to Pipe King accompanied by an itemised list including the batch number and the relevant statement date and number;

(e) the Purchaser gives Pipe King a reasonable opportunity to inspect the Products; and

(f) the Purchaser makes no further use of the Products after the Purchaser discovers or ought that they were defective.

11.4 Clause 11.1 does not apply:

(a) to the extent the Products are damaged due to acts of the Purchaser which are inconsistent with the proper use and care of the Products or due to the Purchaser mishandling the Products after risk passes to the Purchaser in accordance with clause 8.1;

(b) to the extent the Products have been subjected to abnormal use (including excessive vibration, short circuiting, excessive voltage, interrupted or uneven power supply and negligent operation);

(c) to the extent any Products have been repaired, altered or replaced by anyone other than Pipe King or its authorised representatives;

(d) to the extent defects or damage to any Products are attributable to their installation or assembly by any third party;

(e) to defects or damage arising from normal wear and tear; and

(f) to any components of the Products which are not manufactured or supplied by Pipe King or any one of its Related Bodies Corporate.

11.5 Certain Products manufactured and supplied by Pipe King are specified to have a nominal life or rating. Subject to clauses 12.1 and 12.2, Pipe King does not warrant and will not in any circumstance be liable for defects or failures in any such Products or for any reduction in any such Products' nominal life or rating attributable to external factors such as vibration, interrupted or uneven power supply or excessive voltage.

11.6 The warranty contained in this clause 11 is personal to the Purchaser and may not be assigned except with the prior written consent of Pipe King.

11.7 Pipe King reserves the right to provide express warranties direct to end-users of Products. Such warranties may vary or extend the term of available warranty protection and may also be subject to different conditions than are set out in this clause 11.

11.8 The warranties given in this clause 11 should be read in conjunction with the Warranty Information Sheet (if applicable). To the extent of any inconsistency between the provisions of this clause 11 and the Warranty Information Sheet, this clause 11 will apply in priority.

12 Exclusion of liability

12.1 Nothing in these terms and conditions excludes, restricts or modifies, or is intended to exclude, restrict or modify, any guarantee, condition, warranty, right or liability implied by law, or any guarantee, condition, right or liability imposed under the Australian Consumer Law which cannot lawfully be excluded, restricted or modified.

12.2 Pipe King notes the following:

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

12.3 Except for any liability which cannot be limited by law, to the extent permitted by the Australian Consumer Law, Pipe King's liability to the Purchaser in connection with any breach of the Consumer Guarantees in respect of those goods or services is limited, at Pipe King's option, to any one or more of the following:

(a) in the case of goods, the replacement of the goods or resupply of equivalent goods, repair or payment of the cost of replacement or repair of the goods; and

(b) in the case of services, supplying the services again or payment of the cost of having the services supplied again.

12.4 Without limiting and subject to clauses 12.1 and 12.2, neither party shall have any liability to the other party in connection with the Agreement for any economic, indirect or consequential loss, including loss of profit, loss of income, loss of contracts or business and loss of data.

12.5 Subject to clause 12.4, in the case of goods or services which are not supplied by Pipe King under a Consumer Contract, Pipe King's maximum aggregate liability for any cause and under any head of liability in connection with the Agreement will not in any circumstances exceed the total price paid by the Purchaser for those goods and services.

12.6 Subject to clauses 12.4 and 12.7, the Purchaser's total maximum aggregate liability for any cause and under any head of liability in connection with the Agreement will not in any circumstances exceed the total price paid by the Purchaser for those goods and services.

12.7 Clause 12.6 does not apply in relation to any claim which Pipe King may make against the Purchaser in respect of the Purchaser's obligation to pay the price.

12.8 To the full extent permitted by law, these terms and conditions describe the full extent of Pipe King's obligations and liabilities in respect of the supply of the Products and, except as expressly stated or referred to herein (including clauses 12.1 and 12.2) or as otherwise specifically provided in writing by Pipe King, there are no guarantees, conditions, warranties or other terms that bind Pipe King nor will Pipe King otherwise be liable in contract, tort (including negligence) or for breach of statutory duty for any loss, damage, cost or expense of any kind.

13 Product specification and discontinuance

Pipe King reserves the right to:

(a) discontinue Products;

(b) substitute comparable products; and

(c) modify the design, specifications and Standards (other than mandatory Standards) applicable to any of its Products,

at any time including during the currency of these terms and conditions and, in each case, without incurring any liability or other obligation to the Purchaser but no such discontinuance, substitution or modification will apply to any Order which has already been accepted by Pipe King.

14 Termination

14.1 Pipe King may terminate the Agreement, or suspend or cancel any current Order, by written notice to the Purchaser if the Purchaser does not pay any amount in accordance with these terms and conditions and the Purchaser has not remedied the failure to make payment within 7 days of receiving notice of the failure to make payment.

14.2 Either party may terminate this Agreement, or suspend or cancel any current Order, by written notice to the other if:

(a) the other party commits or allows to be committed a material breach of these terms and conditions which is capable of remedy and does not within 21 days of receiving a written notice from the first mentioned party remedy that breach;

(b) the other party commits a material breach of these terms and conditions which cannot be remedied;

(c) subject to applicable law, the other party becomes, or resolves to become, subject to external administration or proceedings under Chapter 5 of the Corporations Act 2001 (Cth); or

(d) an event of the kind described in clause 8.7 occurs in respect of the other party.

14.3 Upon the expiration or termination of this Agreement or the suspension or cancellation of any Order for any reason, the Purchaser must promptly pay all amounts owing to Pipe King under this Agreement.

15 Dispute Resolution

15.1 If a dispute or difference arises between Pipe King and the Purchaser in respect of any fact, act, matter or thing arising out of or in connection with these terms and conditions and one party requires the dispute to be resolved, then that party shall promptly give the other party a written notice giving details of the Dispute.

15.2 Within 14 calendar days of a party receiving a notice referred to in clause 15.1, Pipe King and the Purchaser and/or their delegates must meet and attempt to resolve the dispute in good faith.

15.3 If, within 14 calendar days of the meeting referred to in clause 15.2, the dispute is still not resolved, then, either party may proceed to litigation.

16 Force majeure

Neither party will be liable for any Loss or damage caused by delay in the performance or non-performance of any of its obligations occasioned by any cause whatsoever that is beyond its reasonable control including: Act of God; war; civil disturbance;

pandemics or epidemics; requisitioning by governments or public authorities; governmental restrictions; prohibitions or enactments of any kind; import or export regulations; strikes; shipping and transport delays; lock-outs or other industrial disputes (whether involving its own employees or those of any other person); difficulties in obtaining the Products or materials; breakdown of machinery; fires; or accidents.

17 Intellectual property

17.1 Pipe King for and on behalf of itself, its Related Bodies Corporate and its licensees (if any) reserves ownership and intellectual property rights in all inventions, names, illustrations, drawings, plans, specifications, formulas and documents relating to the Products. Nothing in these terms and conditions operates or is intended to deny Pipe King, its Related Bodies Corporate or its licensees, or confer on the Purchaser, such rights or any other intellectual property rights in the Products.

17.2 If a third party asserts a claim for breach of its intellectual property rights arising from the supply or use of the Products the Purchaser will immediately inform Pipe King and Pipe King will be solely responsible for the defence, resolution and settlement of any such claim. The Purchaser will at Pipe King's cost and request render such reasonable assistance as Pipe King requires in defending any such claim. In no circumstances will the Purchaser acknowledge or concede the validity of any such claim except with Pipe King's express written consent. If any such claim against Pipe King succeeds, Pipe King will at its option use its best endeavours to obtain a right to use or license any such intellectual property rights or modify the Products or replace them at its cost.

17.3 The Purchaser will indemnify Pipe King for any Loss incurred by Pipe King as a result of any claim by a third party in relation to the Products to the extent the claim arises from any materials, intellectual property, requirements or specifications provided by the Purchaser, including the use of the Purchaser's designs, logos, trade marks and techniques in the manufacture, production and labelling of the Products.

17.4 In this clause 17 a reference to intellectual property rights includes patents, trade marks, copyright, registered designs and licences and applications in respect of any of the above.

18 Assignment

A party may only assign any rights or obligations under this Agreement with the prior written consent of the other party.

19 Waiver

No neglect, delay or indulgence on the part of Pipe King in enforcing these terms and conditions will prejudice the rights of Pipe King or be construed as a waiver of any such rights.

20 Severability

If any part of these terms and conditions (including any provision, part, paragraph, phrase or word) is illegal, invalid or unenforceable it will be read down so far as necessary to give it a valid and enforceable operation or, if that is not possible, it will be severed from these terms and conditions, but in any event the remaining provisions will remain in full force and effect.

21 Governing law

This Agreement and these terms and conditions are governed by and must be construed in accordance with the laws which apply in the State of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters or things arising out of these terms and conditions and any other provision of this Agreement.

22 Privacy policy

Pipe King's Privacy Policy and Credit Reporting Policy are on our website at pipeking.com.au The Purchaser and its directors, partners or proprietors:

(a) consent to the collection, use and disclosure of the personal information and credit information for the purpose of Pipe King supplying the Products and managing the Purchaser's account, assessing the credit worthiness of the Purchaser, registering Pipe King's security interests on the PPSR and otherwise implementing these terms and conditions and for any other purpose described in the Privacy Policy and Credit Reporting Policy, and warrant that all data provided by the Purchaser is accurate; and

(b) consent to any personal information collected by Pipe King being disclosed to third parties operating outside Australia including New Zealand, France, and other European countries, United States of America, and any other country where Pipe King or its related entities have a presence or engage third parties, acknowledge and agree that Australian Privacy Principle 8.1 will not apply to such disclosures, that Pipe King will not be required to take such steps as are reasonable in the circumstances to ensure such third parties outside of Australia comply with the Australian Privacy Principles and will not be accountable under the *Privacy Act 1988* (Cth) and the individual will not be able to seek redress against Pipe King under the *Privacy Act 1988* (Cth) in the event such overseas third parties do not comply.

23 Exports and Embargoes

23.1 This section applies where the Purchaser undertakes export, re-export or resale of the Products or where our commercial arrangement is not restricted solely to the Australian market (Exports).

23.2 The Purchaser warrants and undertakes to Pipe King:

(a) The Purchaser shall comply with all the (re-) export control regulations of Australia, France,

the EU and the USA and those of any other applicable jurisdiction and it shall obtain all necessary licences, shipping documents and authorisations required under such legislation in respect of such Exports.

(b) The Purchaser shall not export or re-export the Products to a country that is subject to embargo or sanction without having obtained all necessary authorisations from Australian, French, European or American authorities, the United Nations or any other country or organisation that imposes such restrictions.

(c) The Purchaser shall not supply the Products to parties, organisations or entities subject to embargoes, sanctions or other restrictions imposed by Australia, France, the EU, the USA, the United Nations or by any other country, or to parties, organisations or entities if there is reason to believe that they fail to fully comply with all applicable national or international regulations, sanctions and embargoes.

(d) The Products are not intended to be used in connection with any sectors or use that is banned or subject to restrictions under any laws or regulations, unless all required authorisation by the relevant bodies have been obtained.

(e) All transfer and receipt of funds by the Purchaser comply with all national and international regulations.

(f) To enable authorities or Pipe King to conduct compliance audits, the Purchaser upon request by Pipe King, shall promptly provide Pipe King with all relevant licences and authorisations, information as to the identity of the customer to whom the Products are supplied, the destination and intended use of the Products and the financial institutions or entities used to collect and issue payments.

(g) The Purchaser shall notify Pipe King if the Purchaser suspects that any person the Purchaser has supplied the Products to may not be complying with any embargo, sanction or export control regulation.

(h) Purchaser shall indemnify and hold harmless Pipe King from and against any and all claims, proceedings, actions, fines, losses, costs and damages arising out of or relating to any noncompliance by the Purchaser with any of the above undertakings or breach of any relevant export control regulations or sanction or embargo.

23.3 The Purchaser's compliance with all the above undertakings is a condition of Pipe King continuing to supply the Products to the Purchaser and Pipe King has the right to suspend such supply and terminate any agreement where we have a reasonable belief that the above undertakings are not being complied with or if any obligation under any agreement would constitute a breach of any national or international regulations or any embargo or sanction and Pipe King shall have no liability to the Purchaser or any third party by way of damages or otherwise in respect of such suspension or termination.

24 Online Apps

Where an online app is used in conjunction with a product supplied under these terms and conditions:

(a) The app will be licensed separately under the licence agreement accompanying that app but this agreement shall otherwise apply to any use of the app in connection with the product, including without limitation in relation to any liability of Pipe King under the Australian Consumer Law or otherwise.

(b) Pipe King warrants that it has used its best endeavours to ensure that the functionality provided by the app is as publicly represented by that app and/or by Pipe King but otherwise, to the maximum extent permitted by law, disclaims all liability for such representations.

(c) Where an app advises that it collects personal data, any consent you provide to the collection of that data is taken to be a consent for the collection and use of that data by Pipe King under the Privacy Act (Cth). You also consent to that data being stored in the jurisdiction(s) stipulated by the app.

25 Repair Facilities and Spare Parts

If Pipe King or one of its Related Bodies Corporate is deemed the manufacturer of the Products under the Australian Consumer Law then to the extent permitted by law Pipe King and/or its Related Body Corporate hereby provides written notice pursuant to s 58(2) of the Australian Consumer Law that it does not guarantee that facilities for the repair of the Products are available; and/or parts for the Products are available.

26 Compliance with Legislation, Corporate and Social Responsibilities

26.1 The Purchaser represents and warrants they will comply with all anti-corruption, anti-bribery, anti-trust and anti-money laundering laws, modern slavery legislation, embargo laws and embargos, other criminal laws or regulations and the Human Rights Charter of the Legrand Group (of which Pipe King is a part), which can be accessed at https://www.legrandgroup.com/en/our-commitments/csr-resource-center, to the extent it is applicable to the performance of these terms and conditions.

26.2 The Purchaser acknowledges and agrees to participate in Pipe King's due diligence process in respect of the matters referred to in clause 26.1, before entering into any relationship and during the relationship.

26.3 Pipe King reserves the right undertake due diligence audits of the Purchaser, as part of Pipe King's due diligence process and the Purchaser acknowledges and agrees to participate and provide supporting information which is reasonably requested by Pipe King for the due diligence audit.

26.4 The Purchaser acknowledges and agrees that any breach of this clause is deemed a material breach entitling Pipe King to immediately terminate these terms and conditions pursuant to clause 14.1

27 Survival

Clauses 1, 4, 9, 10, 12, 15, 17, 21, 22 and 26 survive the termination of these terms and conditions as do any other provisions that by implication from their nature are intended to survive the termination and any rights and remedies accrued prior to termination.