

## **Disclosure of Key Terms relating to the supply of goods or services to consumers**

*Section 47A Fair Trading Act 1987 (NSW) ("the Act")*

Pursuant to section 47A of the Act, a supplier must, before supplying a consumer with goods or services in NSW, take reasonable steps to ensure the consumer is aware of the substance and effect of any term or condition relating to the supply of the goods or services that may substantially prejudice the interests of the consumer.

The following contains a summary of key terms in the attached Trading Terms between Forbo Floorcoverings Pty Ltd ACN 004 533 251 (**Us, We, Our**) and the Customer (**You**), which You should be made aware of as per the requirements of the Act.

Words not defined in this summary have the same meaning as set out in the Terms:

### **1. Clauses 8.1- 8.4 - Exclusion of Warranties**

These clauses excludes all warranties not set out in the Terms or any other warranty document (to the extent possible) and makes clear that We are not liable to compensate you for:

- (a) Any increased costs or expenses you may incur;
- (b) Any loss of profit, revenue, business, contract or anticipated savings;
- (c) Any loss or expense resulting from a claim by a third party; or
- (d) Any special, indirect or Consequential Loss or damage of any nature.

### **2. Clauses 5.1 and 8.2 – Limitation of Liability**

Clause 8.1 limits the remedies available to You if the Goods or services provided by Us are faulty, for example we may replace the Goods or provide a refund at our election.

Clause 5.1 seeks to limit the timeframe for any claim by You relating to the short delivery of Goods.

### **3. Clause 9 – Indemnity**

This clause requires You to indemnify Us against any loss or damage We may suffer as a result of your breach of our Trading Terms, which means You will pay us any loss or damage We suffer.



## **TERMS AND CONDITIONS OF SALE**

These are the entire Terms and Conditions of Sale ("the Terms") of all goods merchandise and services ("the Goods") supplied by **FORBO FLOORCOVERINGS PTY LTD ACN 004 533 251 ABN 87 004 533 251** and its associated and subsidiary companies (all of which are referred to as "Forbo") to any person, firm or company placing an order with Forbo for the purchase of any Goods ("the Customer"). Except as otherwise expressly agreed upon in writing between a duly authorised officer of Forbo and the Customer, these Terms will apply notwithstanding any provisions to the contrary which may appear on any order form or other document issued by any Customer. Any supply of Goods by Forbo to the Customer made after the date of acceptance of these Terms is a supply pursuant to the supply agreement constituted by these Terms and the relevant order accepted by Forbo ("Agreement") and any such supply does not give rise to a new or separate agreement.

### **1. GENERAL**

- 1.1. All orders placed with Forbo shall only be accepted subject to these Terms.
- 1.2. Forbo may at any time, and from time to time alter these Terms and such altered Terms shall apply from the date of alteration. A copy of current Terms can be found on Forbo's website, [www.forbo-flooring.com.au](http://www.forbo-flooring.com.au). The Customer acknowledges and warrants that he/she/it will regularly inspect the said website for any updated or altered Terms and that there is no duty or obligation whatsoever on Forbo to inform or advise the Customer of any such altered Term.
- 1.3. If a Customer cancels or alters any order or part order for special Goods or standard Goods with special materials at any time after Forbo has received the order, then Forbo reserves the right to charge the Customer the costs of any special Goods or materials already acquired for the order, together with the cost of any labour and tooling already expended to the date of such cancellation or alteration.
- 1.4. Goods & Services Tax ("GST"), Sales Tax or any other applicable tax or duty payable shall be paid by or reimbursed by the Customer to Forbo on demand, and the Customer shall indemnify and keep indemnified Forbo in respect of all taxes and duties including GST arising out of any sale of Goods or the subsequent use of the Goods after the sale to the Customer. The amount of such tax or duty shall be calculated using the rates and methods of assessment in force at the time of delivery.

### **2. PRICES**

- 2.1. All prices will be those referred to in Forbo's price lists and/or arrangements current at the date of invoice.
- 2.2. Prices will be subject to change without notice and unless otherwise stated, are strictly net.

### **3. TERMS OF PAYMENT**

- 3.1. The Customer must pay the Price and the Additional Charges to Forbo.
- 3.2. The granting of a Credit Account will be at the absolute discretion of Forbo and unless otherwise demanded by Forbo, the Customer must make payment of all amounts payable including Additional Charges within thirty (30) days after the end of the month in which delivery is made or thirty (30) days from the date of the invoice, whichever is the earlier.
- 3.3. Customers will not be entitled to withhold payments by reason of any account query, dispute or set off or counter claim of any kind.
- 3.4. The Customer agrees to pay Forbo's administration and handling fees in respect of any copies of documents required or processing involved in the conduct of the Credit Account including but not limited to Credit Account administration fees, merchant or other fees incurred as a result of payment by credit or charge card or Bpay payment or any other means and such fees will be charged to the Customer's Account.
- 3.5. If the Customer fails to make payment in accordance with Clause 3, Forbo shall be entitled to:-

- a. require the payment of cash upon delivery of any further Goods;

- b. charge an interest charge at the rate of one point five per centum (1.5%) per month on a cumulative basis on all overdue amounts (including late payment charges and amounts other than the price) calculated on a day to day basis on any monies due but unpaid. Such interest charge is to be computed from the due date for payment AND the parties agree that such interest charge is not a penalty but
- a true measure of damages incurred by Forbo;
- c. claim from the Customer all costs, expenses and charges incurred on any account whatsoever on an indemnity basis including but not limited to any action taken by Forbo to recover monies or goods owing by the Customer, including but not limited to mercantile agents' costs and legal costs and disbursements on a solicitor/client basis;
- d. credit any payments received from the Customer first against any interest charges and costs and all such charges shall be payable on demand;
- e. cease any further deliveries to the Customer and to terminate any Agreement in relation to Goods that have not been delivered without prejudice to any of its existing rights;
- f. preclude Customers who have overdue accounts from participating in any special deals, discounts, bonus payment redemptions, rebates and all other incentive programs until their accounts are no longer overdue; or
- g. rescind the order and resell or dispose of the Goods without

prejudice to any claims for damages by the Customer.

#### 4. DELIVERY

- 4.1. Any date or time quoted for delivery is an estimate only and Forbo shall endeavour to effect delivery at the time or times required by the Customer but failure to do so shall not confer any right of cancellation or refusal of delivery on the Customer or render Forbo liable for any loss or damages directly or indirectly sustained by the Customer as a result of failure or delay in delivery of Goods.
- 4.2. All delivery, freight and insurance will be added to the Customer's Account and unless stated on the Purchase Order, are not included in the price.
- 4.3. The Customer shall not be relieved of any obligation to accept or pay for Goods by reason of any delay in delivery or any strike, lockout, unavailability of materials, accidents to machinery, differences with workmen, breakdowns, shortages of supplies or labour, fires, floods, storm or tempest, transport delays, acts of God, pandemics, epidemics, restrictions or intervention imposed by any laws, regulations, governments or agencies thereof and any other cause beyond the control of Forbo or any other cause whatsoever.

**5. 4.4. Forbo 's obligation to deliver shall be discharged on arrival of the Goods at the Customer's nominated delivery destination, nominated transport company, nominated agent or the address appearing on the invoice. The Customer shall unload the Goods upon delivery, provided that if the Customer is unable or unwilling to accept physical delivery of the Goods when the Goods are ready for delivery, Forbo shall be entitled to charge a fee for any delay experienced or arrange for the storage of the Goods at the risk and cost of the Customer including all transportation, storage and other consequential costs. Forbo may, at its discretion, make and invoice partial deliveries and each partial delivery shall be a separate sale pursuant to these Terms .INSPECTION**

- 5.1. The Customer must examine the Goods immediately after delivery and Forbo will not be liable for any misdelivery, shortage, defect or damage unless Forbo receives details in writing within seven (7) days of the date of delivery of the Goods.

#### 6. PROPERTY AND RISK

- 6.1. Notwithstanding delivery of the Goods or their installation, ownership, title and property in the Goods will remain with Forbo until the Customer has paid for the Goods in full and discharged any and all other indebtedness to Forbo in full on any account whatsoever, including all applicable GST and other taxes, levies and duties. Any payment made by or on behalf of a Customer which is later avoided by the application of any statutory provision will be deemed not to discharge the Customer's indebtedness and, in such an event the parties are to be restored to rights which each respectively would have had if the payment had not been made.
- 6.2. The risk in the Goods will pass to the Customer upon delivery to the Customer or its agent or to a

transport company nominated by the Customer.

- 6.3. The Customer acknowledges that it is in possession of the Goods solely as a bailee for Forbo until payment as defined in clause 3 has been made in full to Forbo and until such payment:
  - a. The Customer will be fully responsible for any loss or damage to the Goods whatsoever and howsoever caused following delivery; and
  - b. The Customer must store the Goods separately from its own goods and those of any other party and in manner which clearly identifies the Goods, whether as separate chattels or as components, as the property of Forbo.
- 6.4. The Customer must maintain records of Goods owned by Forbo identifying them as Forbo 's property, of the persons to whom the Goods are sold or disposed to and of the payments made by such persons for such Goods. The Customer must allow Forbo to inspect these records and the Goods themselves on request.
- 6.5. The Customer hereby irrevocably grants to Forbo, its agents and servants, an unrestricted right and licence, without notice to enter premises occupied by the Customer, any premises under the control of the Customer or any other premises where the Goods are held or stored and will procure access to any such premises for Forbo or Forbo's employees or agents to identify and remove any of the Goods the property of Forbo without in any way being liable to the Customer or any person claiming through the Customer; Forbo will have the right to sell or dispose of any such Goods removed or otherwise in its sole discretion and will not be liable for any loss occasioned thereby.
- 6.6. if the Goods cannot be distinguished from similar Goods which the Customer has or claims to have paid for in full, Forbo may in its absolute discretion seize all goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of Forbo and the Customer may be ascertained. Forbo must promptly

- return to the Customer any goods the property of the Customer and Forbo is in no way liable or responsible for any loss or damage to the Goods or for any loss, damage or destruction to the Customer's business howsoever arising from the seizure of the Goods or any other goods.
- 6.7. In the event that the Customer uses the Goods in some manufacturing or construction process of its own or that of a third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for Forbo. Such part will be an amount equal in dollar terms to the amount owing by the Customer to Forbo at the time of the receipt of such proceeds. The Customer will pay Forbo such funds held in trust upon the demand of Forbo.
- 6.8. Forbo licenses the Customer to install the Goods. If the Goods are affixed to other materials, the totality thereof shall be the sole and exclusive property of Forbo until payment as defined in Clause 3 has been made in full to Forbo unless the other materials or part thereof are or is the property of a party or parties other than the Customer in which case the totality thereof shall be deemed to be owned as tenants in common with such other party or parties in shares corresponding to the respective amounts paid or payable by the Customer in respect of such other party or parties.
- 6.9. The Customer will be at liberty to agree to sell the Goods (independently or affixed to other materials) in the ordinary course of trade subject to the condition that until payment has been made in accordance with clause 6, the Customer will sell as an agent and bailee for Forbo and that the entire proceeds from the sale thereof will be held in a separate account on trust for Forbo.
- 6.10. The right to on-sell, deal with or otherwise dispose of the Goods in the normal course of trade may be revoked at any time by Forbo and shall automatically cease if a Receiver is appointed over any of the assets on the undertaking of the Customer or if a winding up order is made against the Customer or if the Customer goes into voluntary liquidation (otherwise than for the purpose of reconstruction or amalgamation) or administration or calls a meeting of, or makes any arrangement or composition with, creditors or commits any act of bankruptcy or where the Customer is in default of any of its obligations to Forbo.
- 6.11. Separately, Customer hereby charges all its right, title and interest to and in the proceeds of sale of the Goods (the 'Collateral' as that term is defined in the PPSA) or any of it as original Collateral in favour of Forbo.
- 7. PERSONAL PROPERTY SECURITIES ACT 2009 ("PPS ACT")**
- 7.1. Defined terms in this clause have the same meaning as given to them in the PPS Act.
- 7.2. Forbo and the Customer acknowledge that these Terms constitute a Security Agreement and entitle Forbo to claim:
- a Purchase Money Security Interest ("PMSI") in favour of Forbo over the Collateral supplied or to be supplied to the Customer as Grantor pursuant to these Terms; and
  - a security interest over the proceeds of sale of the Collateral referred to in 7.2 (a) as original collateral.
- 7.3. The goods supplied or to be supplied under these Terms fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms.
- 7.4. The Proceeds of sale of the Collateral referred to in clause 7.2(a) and 6.11 falls within the PPS Act classification of "Account".
- 7.5. Forbo and the Customer acknowledge that Forbo, as Secured Party, is entitled to register its Security Interest in the Collateral supplied or to be supplied to Customer pursuant to these Terms and in the relevant Proceeds. The Customer agrees to execute all documents and provide all information and assistance required by Forbo to ensure registration and maintenance of any security interest, including to ensure that Forbo may acquire and maintain any perfected security interests relating to the.
- 7.6. The Customer acknowledges that Forbo may register a Financing Statement or Financing Change Statement in respect of a security interest (including any PMSI), and to the extent permissible at law waives any right to receive notice of a Verification Statement confirming registration of a Financial Statement or a Financing Change Statement relating to a Security Interest granted by the Customer to Forbo.
- 7.7. The Customer agrees not to register a Financing Change Statement in respect of a security interest contemplated by these Terms, or in favour of a third party, without Forbo's prior written consent.
- 7.8. To the extent permissible at law, the Customer agrees to indemnify Forbo on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the:
- Registration or amendment or discharge of any Financing Statement registered by or on behalf of Forbo; and
  - Enforcement or attempted enforcement of any Security Interest granted to Forbo by the Customer.
- 7.9. To the extent that Chapter 4 of the PPS Act would otherwise apply to any enforcement of a security interest, and section 115(1) of the PPS Act allows parties to contract out of provisions of the PPS Act, the following provisions of the PPS Act will not apply and the Customer agrees that it has no rights under them: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notices to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143.
- 7.10. In so far as section 115(7) of the PPS Act allows for the contracting out of provisions of the PPS Act, the following provisions of the PPS Act will not apply and the Customer agrees it has no rights under them: section 127; section 129(2) and (3); section 130(1); section 132; section

134(2); section 135; section 136(3), iv. (4) and (5) and section 137.

7.11. To the extent permissible at law, the Customer agrees to waive its v. right to receive notice of an intention to seize Collateral under section 123 of the PPS Act.

7.12. Unless otherwise agreed and to the extent permitted by the PPS Act, both Forbo and the Customer agree not to disclose any information contemplated in section 275(1) of the PPS Act to an interested person, or as requested by an interested person and the Customer agrees to waive any right it may have had under section 275(7) of the PPS Act to authorise any disclosure of that information.

7.13. Forbo may, at its absolute discretion, apply any amounts received pursuant to these Terms in any way Forbo determines, to satisfy any obligations relating to a security interest contemplated by these Terms.

## 8. WARRANTIES

8.1. Neither party excludes or limits the application of any statute (including the Competition and Consumer Act 2010 (Cth) as amended from time to time" ("the Act")), where to do so would contravene the Actor cause any provision of these Terms to be void. Nothing in these Terms modifies or excludes the conditions, warranties, and undertakings and other legal rights under the Act and other laws. Except as expressly set out in these Terms, and the Act, Forbo makes no warranties or other representations under or in connection with these Terms, and Forbo's liability in respect thereof, is limited to the fullest extent permitted by law.

8.2. Forbo's liability is, to the extent permitted at law, , limited to any one of the following, as determined by Forbo:

- a. In the case of any Goods supplied by Forbo:
  - i. the replacement of the relevant Goods or supply of equivalent Goods; or
  - ii. the repair of the Goods; or
  - iii. payment of the cost of replacing or having the Goods replaced or repaired; or

Reimbursement of some or all amounts paid by the Customer in respect of the Goods.

b. where the Goods are services:
 

- i. the supply of the Service again; or
- ii. the payment of the cost of having the services supplied again.

8.3. Goods which are not manufactured by Forbo are subject solely to the warranties (if any) specified by the manufacturers or the third party suppliers to Forbo, and the Customer acknowledges that, to the extent permitted by law, Forbo gives no warranties beyond such manufacturers or suppliers warranties.

8.4. The Customer acknowledges that to the extent permitted at law Forbo makes no representations or warranties as to the fitness or suitability for any purpose of any of the Goods.

8.5. Except as required by law, Forbo is not obliged to accept Goods returned for any reason.

8.6. Subject to the Act and any other legislation, all other warranties whether implied or otherwise, not set out in these Terms are excluded and the Company is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer for:

for any loss or damage whether direct, indirect, liquidated, special, or Consequential Loss, for any increased costs or expenses, any loss of profit, revenue, business, contracts or anticipated savings, any loss or expense resulting from a claim by a third party, loss or damage of any nature whatsoever caused by Forbo's failure to complete or delay in completing an order to supply the Goods or any loss or damage arising however caused (including negligent or reckless conduct or omission) which the Customer or any other person may suffer or incur which may, without limiting the generality of the foregoing, arise directly or indirectly in respect of the Goods, any defects in the Goods and/or of its officers, agents, employees to comply with the Agreement or any obligation imposed by law.

8.7. If the Customer is deemed to be a consumer pursuant to the Act, then:

a. For Goods:

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 compensation for any other reasonably foreseeable loss or damage. You are also 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.

b. For Services:

Our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and
- to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to be compensated for any other reasonably foreseeable loss or damage.

If the failure does not amount to a major failure, you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

## Manufacturer Warranties

8.8. The warranty period for the Goods varies according to the specific warranties provided by different manufacturers. Customers should contact their Sales Representative for details of each warranty. Forbo will bear the cost of valid warranty claims. The cost of rejected warranty claims are to be born by the Customer. Any Customer with a warranty or warranty expenses claim should notify their Sales Representative in

writing at 23 – 24 Ormsby Place,  
Wetherill Park, NSW, 2164.

8.9. To the extent permitted by law, if Forbo elects or is required by law to provide any of the remedies referred to in clause 8.2 or clause 8.7, the Customer will only be entitled to reimbursement for any labour cost component, as follows:

- a. written quotations are to be obtained by either Forbo or the Customer from a certified and qualified flooring installer/contractor (**Contractor Quotation**);
- b. the Contractor Quotation shall be submitted to Forbo's National Sales Manager or Forbo's Technical Services Manager for approval prior to such ;
- c. approval of the Forbo's National Sales Manager or Forbo's Technical Services Manager for the labour costs of the contractor referred to in clause 8.9(a) shall not be given if: the labour costs rates quoted exceed the relevant regional union installation rates;
- d. No additional charges outside the scope of flooring installation (for example, but not limited to, after hours charges, other subcontractor trades charges, electricians/plumbing charges, travel charges, removal and reinstalment of fixtures, fittings, furniture) will be accepted or covered by Forbo, unless otherwise approved prior in writing and Forbo is required to cover that cost under law.

## 9. INDEMNITY

9.1 To the full extent permitted by law, Customer will indemnify Forbo and keep Forbo indemnified and hold Forbo harmless from and against any liability and any loss or damage Forbo may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms by Customer or its representatives.

## 10. FORCE MAJEURE

10.1. Forbo will not be liable for the consequences of any failure or delay in supply or delivery the

Goods where such failure or delay is directly or indirectly due to any cause or circumstance whatsoever outside the reasonable control of Forbo including, but not limited to, war, riots, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, transport delays, fire, act of God, pandemic, epidemic, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, civil commotions or accidents of any kind ("**Force Majeure Event**").

10.2 . If a Force Majeure Event arises, Forbo will notify the Customer in writing of the Force Majeure Event and the likely impact it will have on Forbo's performance under these Terms. If the Force Majeure Event affects the capacity of Forbo to complete its material obligations under these Terms in a timely manner, Forbo may by notice to the Customer terminate this Agreement without any liability whatsoever on its part arising from that termination.

## 11. TERMINATION

11.1.. If the Customer fails to comply with any of these Terms or being a natural person or persons commits any act of bankruptcy, or being a corporation passes a resolution for winding up or liquidation (other than for the purposes of reorganisation or reconstruction) or administration or enters into any composition or arrangement with creditors of if a receiver or manager or administrator or controller is appointed for any property or assets of the Customer or becomes liable to be wound up by reason of insolvency or if any petition is presented for its winding up, or if a liquidator or provisional liquidator or administrator is appointed, Forbo may, in addition to exercising all or any of its rights against the Customer, suspend any further deliveries and immediately recover possession of any Goods not paid for in accordance with these Terms.

## 12. RETURNS

12.1. Other than in respect of Forbo's obligations pursuant to Clause 8 hereof Forbo will not be liable to accept any returned Goods but may in its absolute discretion accept the return of Goods, provided that such Goods shall only be accepted for return with the prior written approval of a duly authorised representative of Forbo. Goods returned for credit pursuant to this clause will be subject to a handling and administration charge equivalent to 25% of the invoiced value of the returned Goods. Return freight and other expenses will be paid for by the Customer and no returns of special Goods will be accepted. Any returned Goods must be accompanied with a relevant invoice number and/ or Goods Return Authority.

## 13. ON-SALE

13.1. The Customer agrees that upon the on-sale of any Goods to third parties, it will:

- a. inform any third party involved of these Terms;
- b. inform any third party of Forbo's product warranties if any; and
- c. not make any misrepresentations to third parties about the Goods.

## 14. TRUSTEE CAPACITY

14.1. If Customer is the trustee of a trust (whether disclosed to Forbo or not), Customer warrants to Forbo that:

- a. Customer enters into this Agreement in both its capacity as trustee and in its personal capacity;
- b. Customer has the right to be indemnified out of trust assets;
- c. Customer has the power under the trust deed to enter into this Agreement; and
- d. Customer will not retire as trustee of the trust or appoint any new or additional trustee without first advising Forbo.

## 15. GOVERNING LAW

15.1. The Customer agrees that the Terms will be construed according to the laws of the State or Territory as

Forbo may in its sole discretion determine. Proceedings by either Forbo or the Customer may be instituted and/or continued in such State or Territory as Forbo may in its sole discretion determine. Failing such determination the Customer consents to any proceedings being instituted and heard by any appropriate Court sitting in the State of New South Wales applying the laws that State.

**16. SERVICE OF DOCUMENTS**

16.1. The Customer agrees that service of any notices or Court documents may be effected by forwarding same by pre-paid post, facsimile or email to the last known address of the Customer.

**17. STATEMENT OF DEBT**

17.1. A certificate signed by a Director, Secretary, Financial Controller or Credit Manager of Forbo shall be prima facie evidence of the amount of indebtedness of the Customer to Forbo at that time.

**18. ELECTRONIC COMMUNICATIONS**

18.1. The Customer agrees to accept service of notices under the Building And Construction Industry Security Of Payment Act 1999 (NSW) (as amended) ("the NSW Act 1999"), or any like or similar legislation that may be applicable in the State or Territory where the Goods were delivered to the Customer, via e-mail (in addition to any and all other forms of service authorised under the Act, or regulations made pursuant to the Acts).

18.2. In addition to delivery in person, via post and via facsimile, the customer agrees to have invoices sent via email.

18.3. The Customer agrees that email communications from Forbo to the Customer constitute an "electronic

communication" within the meaning of the Electronic Transactions Act 2000 (NSW) ("the Act")

18.4. The Customer agrees that in receiving invoices via email, the Customer is designating "an information system for the purpose of receiving electronic communications" within the meaning of the Act.

18.5. The Customer agrees that evidence of the "dispatch" (within the meaning of the Act) by Forbo of an email is also prima facie evidence of the "receipt" of the email by the Customer within the meaning of the Act. Unless the contrary is proven the time of receipt will be deemed to be twenty (20) seconds after the time of the "dispatch" of the email.

**19. GENERAL**

19.1. These Terms contain all of the terms and conditions of the contract between the parties unless these Terms are specifically incorporated as part of any other agreement between the Customer and Forbo .

19.2. Any conditions found to be void, unenforceable or illegal may, to that extent be severed from the Agreement.

19.3. No waiver of any of these Terms or failure to exercise a right or remedy by Forbo will be considered to imply or constitute a further waiver by Forbo of the same or any other term, condition, right or remedy.

**20. DEFINITIONS**

In these Terms unless the contrary intention appears:

**Additional Charges** includes all delivery, handling and storage charges, goods and services tax,

stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the price, payable by the Customer to Forbo arising out of the sale of the Goods.

**Consequential Loss** means increased costs or expenses; loss of revenue; loss of profit or anticipated profit; loss of business; loss of business reputation; loss of opportunities; loss of anticipated savings; loss of goodwill; loss or expense resulting from a claim by a third party; special or indirect loss or damage of any nature whatsoever caused by Forbo's failure to complete or delay in completing the order to deliver the Goods; and any other loss suffered by a party as a result of a breach of this Agreement that cannot reasonably be considered to arise directly and naturally from that breach.

**Credit Account** means any billing arrangement Forbo has extended to the Customer.

**Price** means the list price for the Goods as referred to in Forbo's price lists and/or arrangements current at the date of invoice, which are subject to change without notice and unless otherwise stated, strictly net.

**Purchase Order** means a written request for Goods from the Customer to Forbo.

**Representative** means the person that is the appointed representatives for the Customer.

Duly signed and accepted in full on behalf of \_\_\_\_\_  
Sign \_\_\_\_\_ Print \_\_\_\_\_ Position \_\_\_\_\_ Date \_\_\_\_\_