



Terms and Conditions of Trade - please read carefully

Applicant name: (Company, Partnership, Sole Trader or Trustee)	
Trading Name	

The following are the Terms and Conditions of trade for ECORR Pty Ltd ABN 25 646 795 020:

“ECORR”, “we” or “us”

1. Credit

- 1.1. Upon completion of a Credit Account Application and Guarantee, we may, at our sole discretion, extend credit to you and set a credit limit. You are not entitled to any extension of credit, nor the provision of Goods and/or Services, until you receive written notice from us stating that the credit facility has been granted.
- 1.2. Once your credit limit has been reached, we have the right to refuse further credit at its sole discretion.
- 1.3. We reserve the right to reduce or withdraw credit at any time.
- 1.4. If at any time you exceed your credit limit, you are liable for the full outstanding amount. Your liability is not restricted to the original credit limit.

2. Agreement

- 2.1. Except to the extent otherwise agreed in writing by both parties, these Terms and Conditions, the Credit Account Application and Guarantees (if applicable) govern the entire relationship between ECORR and the Customer in connection with the provision of the Goods and Services and will prevail over any other document (including purchase order terms or procurement terms provided by ECORR or terms on the back of delivery dockets to the extent inconsistent with these Terms and Conditions) from time to time. To the extent of any inconsistency between the Credit Account Application, the Guarantees and these Terms and Conditions, these Terms and Conditions prevail. The Customer acknowledges that it has not relied on any representation, inducement, warranty or promise which is not set out below.

3. Purchase and supply

- 3.1. You agree to purchase and we agree to supply all Goods and Services subject to these Terms and Conditions.
- 3.2. You will be bound by these Terms and Conditions upon:
 - (i) signing this document; and/or
 - (ii) placing a written or oral purchase Order for our Goods and/or Services which we accept; and/or
 - (iii) you instruct us with respect to the tipping of materials.
- 3.3. All invoices in respect of Goods delivered shall be deemed to be accepted as a correct charge if, after fourteen days from the date of receipt of the invoice, you raise no objection to the invoice.
- 3.4. A minimum order value may be implemented and varied from time to time at our sole discretion.
- 3.5. A deposit may be required at our sole discretion.

4. Information

- 4.1. You acknowledge and agree that:
 - (i) You will provide all relevant information to us (including, but not limited to all specifications relating to the Goods and Services, details relating to the Site, and other matters that may affect ECORR's ability to supply/perform the Goods and Services) to enable us to supply/perform the Goods and Services in a timely and proper manner; and

- (ii) ECORR, in giving a Quote or Order, has relied upon the accuracy and completeness of such information and you hereby warrant to ECORR the accuracy and completeness of all such information.

4.2. If we have provided you with any representations or information in connection with the Goods and Services, you acknowledge that you have conducted your own enquiries and formed your own opinion as to the correctness or appropriateness of such representations or information and the Goods and Services themselves and have not and will not rely on our representations or information.

5. Material Quality

- 5.1. The Customer acknowledges and agrees that quarry or recycling materials of a particular description supplied as part of the Goods vary as to the uniformity of grading of material, size, shape moisture content, degradation factor, hardness, texture and other characteristics and, subject to clause 13, ECORR expressly disclaims any liability with respect to such variations. ECORR acknowledges that the Goods are provided on the basis they do not conform to any Australian Standard or specification except as stated on the face of the Quote and/or Order. At the request of the Customer, ECORR can provide a summary of traceable stockpiles of the Goods supplied to the Customer.
- 5.2. The Customer acknowledges that it shall use the Goods in accordance with the requirements of current environmental law provisions, regulation or standard and ECORR shall not be liable for any failure of the Customer to use and/or store the Goods in compliance with current environmental law, regulation or standard. ECORR shall not be liable for any failure of the Customer or others to blend the Goods.

6. Testing

- 6.1. Goods supplied by ECORR and provided to you are tested in accordance with ECORR's quality control regime. We will, at your request, use reasonable endeavors to arrange any further testing of the Goods. The costs of any testing will be payable by you in accordance with the ruling rates at the time of delivery. Any testing conducted or arranged by you will be carried out by a NATA accredited laboratory. You will provide ECORR with copies of any such third party testing conducted.

7. Client Responsibilities

- 7.1. The Customer agrees:
 - (i) To make contact with the site supervisor upon arriving on Site to co-ordinate the delivery program and where necessary site inductions will be carried out; and
 - (ii) To provide and deliver to ECORR any delivery inductions or site rules prior to requesting a Quote and/or prior to placing an Order for Goods or Services with ECORR. It is the responsibility of the Customer to provide all necessary inductions to ECORR and administer site rules unless agreed in writing with ECORR prior.
- 7.2. The Customer, with respect to tipping, agrees:
 - (i) and acknowledges that any material containing asbestos and/or any other unaccepted material as determined by ECORR shall not be accepted under any circumstances; and
 - (ii) if any material is delivered outside of the environmental report description and analysis then ECORR reserves the right to charge any ancillary associated costs with the materials (including but not limited to any testing, consultancy and disposal); and
 - (iii) all personnel delivering materials shall be appropriately insured and all entitlements paid; and
 - (iv) PPE including high visibility clothing and steel capped boots must be worn at all times by delivery personnel; and
 - (v) to comply with the NSW Roads and Maritime Services load limits on all materials; and
 - (vi) to maintain the speed limit on site of 10km/hr on all sites. Failure to comply causing a dangerous situation to others will result in immediate removal from the site and a report filed on record.

8. Quote

- 8.1. We may provide you with a Quote for the supply of Goods and/or Services but we are not obliged to supply the Goods and/or Services until an Order is placed by you and that Order is accepted by us.
- 8.2. All Goods and Services are subject to availability and source pricing at the time of the quotation.
- 8.3. Prices quoted are based on current rates of freight, insurance, customs duties, exchange, shipping expenses, sorting and stacking charges, cartage, rate of waste, cost of materials and other charges affecting the cost of production. These may vary from time to time and, if varied, will be at your expense.
- 8.4. The quotation is based on supply/performance of all the Goods and Services at the Site. You agree to pay any increase in the price of material sourced from a Supplier which forms part of your quotation if such increase occurs between the date that the quotation was issued to the date of delivery of the Goods or performance of services.
- 8.5. The quotation is an offer open to acceptance by the Customer within 30 days from the date on the quotation and any such acceptance must be on the basis that supply/performance of the Goods and Services is started within 2 months of the date of the quotation. The offer is made subject to the Customer meeting ECORR's credit approval requirements. The Customer's written order to commence the supply/performance of the Goods and Services or such commencement by ECORR constitutes acceptance of the offer.
- 8.6. The quotation is based on supply/performance of all of the Goods and Services at the Site. Should the quantities supplied or location of the Site vary

from the quotation ECORR reserves the right to adjust the quotation.

8.7. Revised quote versions supersede earlier quotations issued by ECORR to the Customer for the same project.

9. Orders

9.1. Any information that we provide in respect of the Goods including information in any advertising material does not constitute an offer and is subject to the availability of the Goods. An Order is an offer by you to purchase Goods at our current prices at the date of Order (plus any delivery charges or other applicable charges payable by you). We reserve the right to accept or reject such offer.

9.2. Once an Order is accepted by us, we may immediately incur costs and expenses associated with filling that order. You hereby agree that if an Order is placed by you and subsequently cancelled, you are liable for any such costs and expenses, any loss suffered by us or any claim against us by a third party with respect to that Order. You hereby indemnify us (without set-off or deduction) for all amounts associated with such loss, costs, expenses or claim, including legal costs on an indemnity basis.

9.3. We may cancel any contract or order to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving notice to you. Within 7 days of giving such notice, we shall refund any money paid by you for the Goods. We shall not be liable for any loss or damage whatsoever arising from such cancellation.

9.4. We may license or sub-contract all or any part of its rights and obligations without your consent.

9.5. Cancellation of confirmed Orders and/or Quotes after 12pm the day before ECORR is scheduled to deliver the Goods and Services to You will incur a cancellation charge.

9.6. All Orders and Quotes are subject to minimum and maximum vehicle weights.

10. Tax Invoices

10.1. You agree to pay the total amount shown on invoices (inclusive of GST) issued by either ECORR or Eco Resource Recovery.

11. Site Access

11.1. We will deliver and You will receive the Goods at the kerb alignment in a timely manner. You will be responsible for providing adequate and timely access to the Site for ECORR's material, personnel and equipment and You will indemnify ECORR for all Loss (including but not limited to delay costs, establishment costs and outlays) incurred by ECORR as a result of failure to provide such access. In the case where materials only are supplied by ECORR to You, You shall indemnify ECORR for any Loss incurred by ECORR arising out of or in connection with ECORR's (or its agent's) entry upon the Site for the purposes of delivery. Where ECORR leaves equipment on the Site in connection with the supply/performance of the Goods and Services, You shall take all reasonable precautions to secure the Site to prevent loss or damage to the equipment or any injury to persons entering upon the Site.

11.2. If ECORR (in its absolute discretion) delivers Goods to an unattended Site, You must notify ECORR of any discrepancies (including any damage to the Goods) regarding the Goods within 24 hours of such delivery and failure to give such notice will be conclusive evidence that You accept the Goods and Services.

12. Delivery

12.1. Delivery of the Goods is taken to occur at the time that:

- (i) Your nominated carrier takes possession of the Goods from our premises; or
- (ii) We (or our nominated carrier) deliver/s the Goods to the Site even if the customer is not present at the Site.

12.2. At our sole discretion the cost of delivery may be in addition to the Amount Due.

12.3. We will deliver the Goods to the delivery address at the Site agreed with you.

12.4. The delivery times made known to you are estimates only and we are not liable for late delivery or non-delivery.

12.5. The supply/performance of the Goods and Services is to be conducted during the normal operating hours of ECORR which may vary at each location. The Customer is to check the operating hours of each location at the time of quotation and/or order of the Goods and Services. Should it be necessary to supply the Goods and Services outside of the operating hours of ECORR's operating hours, additional charges will apply.

12.6. Waiting time for ECORR to deliver the Goods at the Site applies and will be incurred by you and charged 15 minutes after site arrival due to site delays.

12.7. If we are prevented from or delayed in complying with an obligation by an event which is beyond our reasonable control, performance of that obligation is suspended during the continuing occurrence of that event. This includes a force majeure event.

12.8. We are not liable for any loss, damage or delay occasioned to you or your customers arising from late or non-delivery of the Goods.

12.9. We may, at our option, deliver the Goods to you in any number of instalments unless we have been advised in writing that you will not take delivery by instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these Terms and Conditions.

12.10. If we deliver any of the Goods by instalments, and any one of those instalments is defective for any reason:

- (i) it is not a repudiation of the Agreement; and
- (ii) the defective instalment is a severable breach that gives rise only to a claim for a refund with respect to that instalment.

- 12.11. If you cannot take delivery of stock you may be invoiced storage fees and charged for redelivery. You must pay such storage fees within 7 days of receipt of that invoice.
- 12.12. To the extent permitted by law, we disclaim any and all liability for the acts, omissions and conduct (wilful or otherwise), including negligence of any carrier.
- 12.13. Where you require the Goods to be delivered or available for delivery on a specified date, you must clearly identify such date in both the ordering document and your confirmation order.
- 12.14. We will make all reasonable efforts to have the Goods delivered to you on the date agreed between the parties. To the extent permitted by law, we exclude all liability should any or all of the Goods be delivered late.
- 12.15. You are required to give ECORR a minimum of 24 hours notice prior to the delivery of the Goods and Services, and ECORR accepts no liability for delivery outside the required notice period.
- 12.16. Late delivery will not entitle you to rescind the Agreement.
- 12.17. You acknowledge that in the course of transportation of the Goods to the point of discharge, settling of the Goods may occur. Prior to discharge from the delivery vehicle, or loading in the event that the Customer collects the Goods from the ECORR's premises, the Customer shall check that the Goods description and quantity on the delivery docket conforms with its requirements, and the Customer must record any discrepancies in writing on the delivery docket including, but not limited to, discrepancies in quantity and specification. Failure to make such notations on the copy of the docket retained by ECORR is deemed to be conclusive evidence that the delivery docket is accurate and the Customer accepts the Goods have been supplied in accordance with these Terms and Conditions. Use, spreading or compacting of the Goods will be deemed as acceptance of the Goods by the Customer.

13. Variations

- 13.1. ECORR is not obliged to carry out any variation which is outside the scope of the Goods and Services. Any variation that ECORR does carry out shall be subject to these Terms and Conditions and shall be charged to and paid for by the Customer at an agreed rate or failing agreement at the rate determined by ECORR.

14. Payment

- 14.1. Our trading terms are strictly 30 days from end of month or the date specified on any invoice.
- 14.2. If payments are not made on time or in full, we may in our absolute discretion do any or all of the following:
 - (i) Reduce or cancel your credit limit;
 - (ii) Reduce or cancel any of your current orders which remain unfulfilled;
 - (iii) Refuse to supply you with further Goods;
 - (iv) Require you to pay for all Goods in full prior to further Goods being delivered;
 - (v) Commence legal proceedings;
 - (vi) Notify the relevant credit reporting bodies;
 - (vii) Terminate this agreement in writing.
- 14.3. The Goods and Services will be paid for by the Customer at the Rates according to the actual quantities supplied, as shown on the delivery docket, subject to these Terms and Conditions and any minimum order quantities specified on the face of this quotation or as otherwise notified to the Customer by ECORR. The actual quantities shown on the delivery docket shall be measured by the ECORR's weighbridge or determined on such other basis as agreed between ECORR and the Customer in writing. The Company is under no obligation to accept any products ordered in excess of the Customer's requirements as shown on the delivery docket (and supplied as part of the Goods and Services) for return or credit.
- 14.4. You are required to pay the Amount Due for purchases with no deduction or set-off, subject to clause 14.5.
- 14.5. In the event of a dispute, the complete undisputed portion of the account must be paid to us in full within 30 days and the Dispute Resolution clause will apply.
- 14.6. In the event of non-payment of any non-disputed amount, we may in our absolute discretion do any or all of the things listed at items (i) to (vii) above.

15. Payment methods

- 15.1. All payments must be made by cash, bank cheque, Visa or Mastercard (plus surcharge), electronic online banking or cheque prior to the delivery or pick up of the Goods unless ECORR agrees in writing.
- 15.2. Payments must be made without any deduction for fees or charges imposed by your bank and or any third parties.
- 15.3. Payments other than cash shall not be deemed to be made until that form of payment has been honoured or cleared.

16. GST and other charges

- 16.1. You agree to pay any GST applicable to any Goods and Services.
- 16.2. We will provide you with a Tax Invoice for the Amount Due if GST applies to any Goods and Services.

- 16.3. You must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 16.4. If the introduction of a regime relating to the emission, removal, mitigation, reduction, avoidance or sequestration of greenhouse gases (Carbon Pollution Reduction Scheme) results in any additional financial burden whatsoever to ECORR arising from the manufacture or supply of goods or services under these Terms and Conditions, ECORR may increase the Amount Due to recover the reasonable net costs incurred by ECORR arising from any Carbon Pollution Reduction Scheme affecting the supply/performance of the Goods and Services.

17. Dispute resolution

- 17.1. Apart from legal action initiated by us with respect to the recovery of a debt, if a dispute arises one party must give the other party written notice of the dispute and the parties must make a genuine attempt to identify the issues in dispute and resolve such issues immediately and in a co-operative manner prior to commencing legal or administrative proceedings.

18. Default

- 18.1. If you do not pay the Amount Due in full in accordance with these Terms and Conditions, then you must pay to us interest charged at the Commonwealth Bank's Benchmark Business Lending Indicator Rate, as published from time to time, plus 2% per annum on the balance of the Amount Due for the period from and including the due date for payment until the date that payment of the Amount Due is made in full. You agree that this is a genuine pre-estimate of our loss.
- 18.2. You agree to pay any costs and expenses incurred by us in connection with exercising our rights for the recovery of the Amount Due under these Terms and Conditions, including but not limited to debt collection agent fees and commission and legal costs on an indemnity basis in bringing debt recovery proceedings or a claim for breach of these Terms and Conditions.
- 18.3. You agree to make good any loss incurred or suffered by us as a result of your failure to pay the Amount Due in full or your breach of these Terms and Conditions.

19. Retention of Title

- 19.1. Property in and ownership of the Goods shall not pass to you until payment of the Amount Due and any other amounts owing to us by you from time to time have been paid in full.
- 19.2. We retain equitable and legal title in the Goods until such title has passed. You take custody of the Goods and retain them as our fiduciary agent. You must store our Goods separately in a manner which clearly identifies the Goods as our property. You must not sell or use the Goods or any part of them until title passes to you.
- 19.3. Upon demand you will immediately return the Goods to us and/or allow us, our employees or agents to enter upon any premises where the Goods have been stored (or where we suspect the Goods have been stored) to recover them.
- 19.4. You hereby indemnify us from and against any liability to any third party in respect of any claims, actions, proceedings, demands, costs, damages and loss arising from us exercising our rights under this clause.
- 19.5. If, in breach of this clause, you sell the Goods prior to paying the Amount Due and any other amounts owing to us by you from time to time, you hereby acknowledge that you are holding all proceeds of sale from such Goods on trust for us until your liability to us is discharged.

20. Personal Property Securities Act 2009 (Cth) ("PPSA")

- 20.1. In this clause, capitalised expressions have the meaning given to them in the PPSA.
- 20.2. You hereby:
 - (i) Acknowledge and agree that these Terms and Conditions constitute a Security Agreement for the purposes of the PPSA;
 - (ii) Grant a Security Interest to us in the Goods and any proceeds of sale in respect of those Goods;
 - (iii) Acknowledge and agree that each supply of Goods on credit terms is subject to this Security Agreement for the purposes of the PPSA and that we may register its Security Interest in the Goods and in the proceeds of sale of the Goods as a Purchase Money Security Interest on the Register.
- 20.3. The parties acknowledge and agree for the purposes of satisfying s 20(1)(iii) of the PPSA that the description of the Goods the subject of the Security Interest created under this Security Agreement is as set out in these Terms and Conditions and any invoice in relation to those Goods and the description of the Goods in any invoice is expressly incorporated into these Terms and Conditions.
- 20.4. You consent to us registering any one or more Financing Statement or Financing Change Statement in respect of any Security Interest created by or contemplated under these Terms and Conditions and undertake to do all things reasonably required by us to facilitate this.
- 20.5. You agree to pay, on demand by us, all costs incurred in connection with registering any Financing Statement or any Financing Change Statement and hereby indemnify us (and our agents) in respect of all such costs incurred.
- 20.6. You agree not to cause (directly or indirectly) the registration of a Financing Change Statement in respect of the Goods without our prior written consent.
- 20.7. You agree that the following provisions of the PPSA will not apply to these Terms and Conditions: section 95 (notice of removal of accession) to the extent that it requires the secured party to give a notice to the grantor; section 96 (when person with an interest in the whole may retain accession); section 118 (to the extent it requires the secured party to give a notice to the grantor); section 121(4) (notice under section 120(2)); section 125 (obligation to dispose of or retain collateral); section 129 (disposal by purchase); section 130 (notice of disposal) to the extent that it requires the secured

party to give a notice to the grantor; paragraph 132(3)(d) (contents of statement of account after disposal); subsection 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (reinstatement of security agreement).

- 20.8. For the purposes of section 157 of the PPSA, you waive your right to receive notice of any verification statement in relation to the registration of a Financing Statement or a Financing Change Statement.
- 20.9. For the purposes of s 275(6) of the PPSA, the parties agree that neither party will, or is entitled to, disclose information of the kind specified in s 275(1) of the PPSA.
- 20.10. You agree that you will not enter into any agreement or arrangement which permits any other person to register any Security Interest in respect of the Goods, the proceeds of sale of the Goods, or any amounts owed in respect of the Goods without our prior written consent.
- 20.11. You agree to provide us with immediate written notice upon a change of your corporate details, such as organisation name, ABN, principal place of business, directors or a material change in shareholders.

21. Safety

- 21.1. The Customer is responsible for ensuring safe and adequate access to the Site for delivery and all other aspects of Site safety.
- 21.2. The Customer shall notify ECORR prior to delivery, of any obstacles or peculiarities in relation to the Site including whether the Site or its approach has a gradient greater than 8%.
- 21.3. The driver making any delivery may refuse to complete the delivery, if not satisfied with ECORR's compliance with 21.1 and 21.2 above, however, making a delivery shall not constitute an assessment of the safety of the Site and in no way relieves the Customer of its obligations under these Conditions, including those relating to safety.
- 21.4. The Customer acknowledges that breathing dust generated from drilling, sawing or cutting quarry products should be avoided as they may contain crystalline silica. The Customer shall ensure that all personnel involved in the Goods and Services avoid contact with exposed skin areas and that a dust mask and goggles are worn as protection from dust when drilling, sawing or cutting. These are general guidelines only and should not be treated as exhaustive. The Customer acknowledges that it has appraised itself of the risks in relation to the supply / performance of the Goods and Services, and that it will take appropriate safety precautions and training of its personnel. Contact the Company for more information and a Material Safety Data Sheet.

22. Risk in the Goods

- 22.1. The risk in the Goods and all insurance responsibility for theft, damage or otherwise in respect of the Goods passes to you immediately upon collection from our premises, upon delivery of the Goods to the agreed delivery address or upon delivery to your nominated carrier.
- 22.2. Until property in and ownership of the Goods passes to you, you must keep the Goods insured and produce to us, upon demand, evidence of such insurance. If you fail to insure the Goods, we may do so and the cost of such insurance shall be payable by you to us upon demand.
- 22.3. To the extent permitted by law, we exclude liability for any damage to the Goods sustained in transit.
- 22.4. If any of the Goods are lost, damaged or destroyed following delivery but prior to ownership passing to you, we are entitled to receive all insurance proceeds payable for the Goods. You hold such insurance proceeds on trust for us. The production of a copy of these terms and conditions by us is sufficient evidence of our rights to receive the insurance proceeds.
- 22.5. If you ask us to leave the Goods outside our warehouse for collection or ask us to deliver the Goods to an unattended location then such Goods shall be left at your sole risk.
- 22.6. Where the Goods are sold ex-bin, risk passes to the Customer when the Goods are loaded on the Customer's vehicle.

23. Returns

- 23.1. You must upon delivery of the Goods by ECORR inspect the Goods against the delivery docket and verify that the Goods being delivered are what has been ordered by you.
- 23.2. If the Goods provided by ECORR upon delivery at the Site are incorrect and you wish to return the Goods, you must notify ECORR immediately of any discrepancies or errors and request that the delivery truck be sent back to ECORR.
- 23.3. ECORR at its discretion will not accept Goods returned by you once the Goods are delivered by ECORR and unloaded off the delivery truck at the Site.
- 23.4. Where Services are provided by ECORR to you (tipping), ECORR reserves its rights upon inspection of the goods to reject the goods delivered by you to ECORR. If it becomes known to ECORR at any time including upon inspection of the goods that the goods provided by you to ECORR contain traces of contaminated material, ECORR reserves its rights to on-charge tipping fees that may be incurred by ECORR to dispose of the goods and contaminated materials including but not limited to sending the goods and contaminated materials for disposal at landfill.

24. Privacy

- 24.1. The Customer and/or the Guarantor/s (herein referred to as Customer) agree for ECORR to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by ECORR.
- 24.2. The Customer agrees that ECORR may exchange information about the Customer with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency for the following purposes:
 - (i) To assess an application by Customer; and/or

- (ii) To notify other credit providers of a default by the Customer; and/or
 - (iii) To exchange information with other credit providers as to the status of the credit account, where the Customer is in default with other credit providers; and/or
 - (iv) To assess the creditworthiness of Customer.
- 24.3. The Customer understands that the information exchanged can include anything about the Customer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.
- 24.4. The Customer consents to ECORR being given to consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act of 1988.
- 24.5. The Customer agrees that personal credit information provided may be used and retained by ECORR for the following purposes and for other purposes as shall be agreed between the Customer and ECORR or required by law from time to time:
- (i) Provision of Service; and/or
 - (ii) marketing of Service by ECORR, its agents or distributors in relation to the Services; and/or
 - (iii) analysing, verifying and/or checking the Customer's credit, payments and/or status in relation to the provision of Service; and/or
 - (iv) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Customer; and/or
 - (v) enabling the daily operation of Customer account and/or the collection of the amounts outstanding in the Customer's account in relation to the Services.
- 24.6. The ECORR may give information about the Customer to a credit reporting agency for the following purposes:
- (i) To obtain a consumer credit report about the Customer;
 - (ii) Allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.
 - (iii) The information given to the credit reporting agency may include:
 - (iv) Personal particulars (the Customer's name, sex, address, previous addresses, date of birth, name of employer and driver's license number);
 - (v) Details concerning the Customer's application for credit or commercial credit and the amount requested;
 - (vi) Advice that ECORR is a current credit provider to the Customer;
 - (vii) Advice of any overdue accounts, loan payments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
 - (viii) That the Customer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
 - (ix) Information that, in the opinion of ECORR, the Customer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Customer's credit obligations);
 - (x) Advice that cheques drawn by the Customer have been dishonoured more than once;
 - (xi) That credit provided to the Customer by ECORR has been paid or otherwise discharged.

25. Limitation of Liability

25.1. Our goods and 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 choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done, you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

25.2. You agree that we may (at no cost) use for the purpose of marketing any documents, designs, drawings or Goods which we created for you.

25.3. ECORR shall not be liable for any damage to any property of whatsoever kind situated in, or adjacent to the Site resulting from Goods and Work supplied or performed in accordance with these Terms and Conditions;

26. Exclusions

26.1. You agree that use of the Goods and Services is at your risk. To the full extent allowed by law, our liability for breach of any term implied into these Terms and Conditions is excluded.

26.2. All information, specifications and samples provided by us in relation to the Goods or Services are approximations only and, subject to any guarantees under the Australian Consumer Law, small deviations or slight variations from them which do not substantially affect your use of the Goods or Services

will not entitle you to reject the Goods upon delivery, or to make any claim in respect of them.

26.3. Any advice, recommendation, information, assistance or service given by us in relation to Goods or Services or both, is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given. It is provided without any warranty as to accuracy, appropriateness or reliability. We do not accept any liability or responsibility for any loss suffered as a result of your reliance on such advice, recommendation, information, assistance or service.

26.4. To the fullest extent permissible at law, we are not liable for any direct, indirect, punitive, incidental, special, consequential damages or any damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the provision of or failure to provide Goods or Services, or otherwise arising out of the provision of Goods or the Services, whether based on terms and conditions of trade, negligence, strict liability or otherwise, even if we have been advised of the possibility of damages.

27. Warranty as Trustee

18.1. If you are entering into these Terms and Conditions as the Trustee of a trust (either corporate or personal), then you warrant and represent to us that:

- (i) The Trustee will be liable to us personally / directly as well as in its capacity as Trustee;
- (ii) all of the powers and discretions conferred on the Trustee by the trust deed are capable of being validly exercised by the Trustee and have not been varied or revoked and the relevant trust is a valid and subsisting trust;
- (iii) The Trustee is the sole trustee of the trust and has full and unfettered power under the trust deed to enter into these Terms and Conditions and that these Terms and Conditions are being executed and entered into as part of the due and proper administration of the trust for the benefit of the beneficiaries of the trust; and
- (iv) no restrictions on the Trustee's right of indemnity out of, or lien over, the trust's assets exist or will be created or permitted to exist and that right will have priority over the right of the beneficiaries to the trust's assets.

28. Updating Terms and Conditions

28.1. We may update our Terms and Conditions from time to time. We will publish such update on our website and notify you by email.

28.2. If no email address is given or an email is returned undeliverable, we will send you by ordinary mail either a copy of the updated Terms and Conditions or written notice of the change and a link to our website.

28.3. By placing a written or oral purchase Order for our Goods and / or Services after we have updated our Terms and Conditions you accept such terms and conditions.

29. Termination

29.1. We may terminate this agreement on 5 Business Days' notice in writing.

29.2. You may terminate this agreement on 10 Business Days' notice in writing if we commit a breach of this agreement and do not rectify the breach within 5 Business Days of receiving written notice of the breach.

29.3. The Customer acknowledges that in the event of supply of false and/or misleading information this shall constitute a breach of contract and ECORR reserves its right to terminate the Agreement and/or Services and/or Order and/or Quote and the Customer shall be liable for any loss incurred by SCORR (including but not limited to, any loss of profits) up to the time of termination.

30. Jurisdiction & governing law

30.1. These Terms and Conditions are governed by the laws of New South Wales.

30.2. We have the exclusive right to nominate any jurisdiction in which any legal action is to be commenced and conducted.

30.3. These Terms and Conditions are not intended to exclude any provisions of any Construction Industry Security of Payment Act in any state.

31. General

31.1. Our records are conclusive about the Amount Due;

31.2. You may not assign any of your rights under these terms;

31.3. A waiver by us of any rights arising due to any breach, default or omission is only effective if it is in writing and shall not be deemed to be a waiver of any other unspecified rights.

31.4. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

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

31.6. You warrant that you have the authority to enter into this agreement and have obtained all necessary internal authorisations to allow you to do so.

32. Interpretation

32.1. Headings do not affect interpretation.

- 32.2. All references to the singular includes the plural and vice versa.
- 32.3. Person includes a firm or body corporate, an incorporated body, association or authority.
- 32.4. A reference to a person includes its executors, administrators, successors and permitted assigns.
- 32.5. And where two or more persons are a party, they are bound jointly and severally.

33. Definitions

In these Terms and Conditions:

- (i) Agreement means the contract of sale formed by the Credit Application and these Terms and Conditions.
- (ii) "Amount Due" means either:
 - a. the amount stated on any Invoice issued to you;
 - b. the sum of all such Invoices;
 - c. the price; or
 - d. quoted price.
- (iii) "Goods" means any goods we have supplied to you or will supply to you in the future;
- (iv) "GST" has the same meaning as in the *A New Tax System (Products and Services Tax) Act 1999*;
- (v) "Nominated Account" means the bank account nominated by you in the direct debit request form;
- (vi) "Order" means a purchase order placed in accordance with our usual course of business;
- (vii) "Quote" means a verbal or written estimate of the amount to be charged by us;
- (viii) "Rates" means the unit rate shown on the face of the Quote or otherwise used to calculate the prices in the quotation and/or Order.
- (ix) "Services" means any Services we are to supply or have supplied to you, including delivery and tipping;
- (x) "Site" means the location for supply/performance of the Goods or Services specified on the face of the Quote and/or Order.
- (xi) "Supplier" means a third-party supplier of the Goods to ECORR.
- (xii) "Tax Invoice" has the same meaning as in the *A New Tax System (Products and Services Tax) Act 1999*;
- (xiii) "Terms and Conditions" means these Terms and Conditions and any amendments to these Terms and Conditions made from time to time and any terms and conditions prescribed on the face of a Quote;
- (xiv) "We"/ "us"/ "our" means ECORR Pty Ltd ABN 25 646 795 020; and
- (xv) "You" means the entity identified or intended to be identified on page 1 of these Terms and Conditions as the Applicant.

I confirm I have read and accept these terms and conditions and am authorised to sign this document.

I confirm I have read and accept these terms and conditions and am authorised to sign this document.

Signed by:

Name: _____

Date: _____

Director: _____

Or

Sole trader: _____

Or

Trustee: _____

Signed by:

Name: _____

Date: _____

Director/Secretary: _____