

**CHEETHAM SALT LIMITED A.B.N. 81 006 926 487 ('Cheetham')**  
**STANDARD EXPORT CONDITIONS OF SALE**

Revised 8<sup>th</sup> April 2024

**1 General**

- 1.1 These terms and conditions as updated from time to time and available at Cheetham's website (<http://www.cheethamsalt.com.au>) (**Conditions**), together with purchase order or the Cheetham Salt Export Contract between Cheetham and its customer (**Customer**) (where applicable) and all documents specified on it, constitute the entire terms of the Agreement to supply Product to the Customer (**Agreement**).
- 1.2 The Conditions exclude and supersede all prior discussions, representations and arrangements and any other oral or written terms and conditions. Without limiting the foregoing, these Conditions expressly exclude any of the Customer's terms and conditions of sale or any other document issued or referred to by the Customer in connection with the supply of the Product.
- 1.3 In the event of ambiguity, conflict or confusion between the documents constituting the Agreement, the terms of the Cheetham Salt Export Contract (where applicable) prevail. The definitions contained in the Cheetham Salt Export Contract (where applicable) apply to these Conditions.

**2 Orders**

- 2.1 Cheetham may accept or reject orders it receives.
- 2.2 Each accepted order is a separate Agreement between Cheetham and the Customer. Subject to clause 4, accepted orders cannot be cancelled without Cheetham's consent, which may be refused or given with conditions.
- 2.3 The supply of Product is subject to availability.
- 2.4 Cheetham may dispatch partial shipments and the Customer must not reject such partial shipments unless otherwise agreed by the parties in writing. Cheetham reserves the right to suspend or discontinue the supply of Product to the Customer.
- 2.5 If Cheetham is unable to supply all of the Customer's order, the Agreement continues to apply to any part of the order supplied.
- 2.6 Cheetham supplies the Products on a non-exclusive basis.

**3 Price:**

- 3.1 Unless otherwise agreed by Cheetham in writing, prices for Product are:
- 3.1.1 those stated in a written quotation or in the Contract Pricing Schedule attached to the Cheetham Salt Export Contract (where applicable) to the extent of any inconsistency in pricing of a particular Product, the document which is dated the latest prevails;
- 3.1.2 subject to the price variation by Cheetham in accordance with clause 4 from time to time; and
- 3.1.3 quoted exclusive of all taxes.

**4 Price Variation**

- 4.1 Cheetham has the right to vary prices for Product from time to time provided that if an order is accepted by Cheetham, Cheetham must notify the Customer of any variation of the prices at least 14 days before issuing an invoice for the Product using the varied prices (**Price Variation Notice**).
- 4.2 The Customer has the right to cancel an order that is subject to a price variation by giving Cheetham a written notice within 7 days after the Price Variation Notice is given (**Cancellation**).
- 4.3 If the Customer fails to give the Cancellation within 7 days after the Price Variation Notice is given, the Customer is deemed to have accepted the varied price and Cheetham is entitled to issue an invoice for the Product ordered using the varied Price.

**5 Pallets**

Unless specified in writing by Cheetham prior to dispatch of the Products, the Customer is not obliged to return to Cheetham the original packaging of the Products which Cheetham used in delivering the Products to the Customer, or the pallets on which Cheetham placed the Products for transport on the vessel.

**6 Payment**

- 6.1 Unless otherwise agreed by Cheetham in writing (including by way of a letter of credit), payment for all Products must be made by the Customer on the date that Cheetham issues the invoice for the Products. Cheetham is not required to commence the delivery of any Products to the Customer unless and until Cheetham receives full payment of the amount specified in the invoice.
- 6.2 If Cheetham does agree to supply Products on credit, unless otherwise agreed in writing, the terms of payment for the Product are 30 days from end of the month of date of invoice without deduction or set off. Time is of the essence.

- 6.3 Invoices shall be issued and will be payable in respect of every delivery notwithstanding that the balance of the order has not been nor will be delivered for any reason.

- 6.4 Where any payment is not made by the due date, Cheetham may charge interest on any overdue portion from the date the payment was due until the date payment is made (both dates inclusive) at a rate equal to 2% above the corporate overdraft reference rate published by Commonwealth Bank of Australia on the due date.

**7 Delivery**

- 7.1 Unless otherwise agreed between the parties, delivery of the products shall be CIF, Incoterms© 2020 from the location as notified by Cheetham from time to time (**Port of Export**) to the location as notified by Cheetham from time to time (**Destination Port**). All quoted delivery or consignment dates are estimates only.
- 7.2 Cheetham is not obliged to meet such dates and will not be liable to the Customer by reason of delays caused by any reason whatsoever.
- 7.3 The bill of lading is the conclusive evidence of the quantity of Product delivered by the Customer. If there are a discrepancy between the quantity of Product delivered and the quantity of Product invoiced, the Customer must notify Cheetham promptly. If the Customer does not notify Cheetham of any discrepancy in writing within 5 days of delivery which is made at the Port of Export, the Customer is deemed to have accepted that the quantity of Product delivered is the same quantity as the quantity that was invoiced by Cheetham.
- 7.4 In the event that Cheetham incurs demurrage charges for the failure to load or discharge the Product due to the Customer's act or omission, the Customer must reimburse Cheetham for those demurrage charges.

**8 Safety and access**

- 8.1 If Cheetham or its carrier enters the Customer's premises to deliver or collect Product, the Customer must provide full and safe access and will be liable for, and indemnifies Cheetham against the cost of all loss, damage to the property and injury to persons, occurring directly or indirectly as a result of the failure by the Customer to ensure the said full and safe access.
- 8.2 The Customer is responsible for providing adequate labour and/or material handling equipment for the loading and unloading of Product at its premises.
- 8.3 Where Cheetham agrees to collect Product from the Customer's premises, the Customer must ensure that the Product is all available for collection at an easily accessible central point and that it is ready for loading at the time Cheetham or its carrier arrives to collect them.

**9 Acceptance of Product**

- 9.1 The Customer acknowledges and agrees that this clause 9 is not intended to vary the delivery terms specified in clause 7, in the Cheetham Salt Export Contract or in a purchase order and is intended only to provide the Customer with a mechanism to claim a defect in the Products.
- 9.2 The Customer is deemed to have accepted the Products and is not entitled to make any claim with respect to the Products, on the earlier of:
- 9.2.1 7 days after the arrival of the Product at the Destination Port; or
- 9.2.2 the day the Customer removes or disturbs the Product's original packaging (provided by Cheetham), or
- 9.2.3 the date an 'inspection certificate' is issued by a mutually agreed independent third party (**Inspection Certificate**) which confirms the Product has no defects,
- 9.3 The Customer must arrange for an Inspection Certificate to be issued with respect to each delivery of Products to be prepared by the mutually agreed independent third party as expeditiously as possible following the arrival of the Product at the Destination Port and once issued the Customer must promptly provide a copy to Cheetham.
- 9.4 If an Inspection Certificate which complies with the requirements of this clause 9 shows that the quality, or specification of the Product is not in conformance with the specifications (**Certificate of Defect**), and the Customer is deemed not to have accepted the Products under this clause at the time the Certificate of Defect is delivered to Cheetham, Cheetham will, at its sole discretion provide the Customer with replacement Product or refund the value of the defective Product, provided that:
- 9.4.1 the Customer has not used the Product;

- 9.4.2 at Cheetham's request and cost, the Customer returns or destroys the Product in the same condition as they were delivered and, where appropriate, in the original packaging; and
- 9.4.3 Cheetham will have no additional liability to the Customer.
- 10 Risk and title (if Products paid for in advance)**  
Unless otherwise agreed by the parties in writing, if the Customer pays Cheetham for the Products in advance then risk and title in the Product passes from Cheetham to the Customer when the Product is loaded onto the shipping vessel at the Port of Export.
- 11 Risk and title (if Products supplied on credit)**  
If Products are supplied by Cheetham to the Customer on credit:
- 11.1 **Risk:** Risk in the Product passes to the Customer in accordance with the Incoterms© 2020 rules applicable to the Agreement. In respect of CIF, Incoterms© 2020 risk in the Product passes to the Customer when the Product is loaded onto the shipping vessel at the Port of Export.
- 11.2 **Title:** Until all monies owing by the Customer to Cheetham are paid in full for the Product and notwithstanding any credit granted to the Customer, legal and equitable title to the Product is retained by Cheetham. Until then, the Customer is a bailee of the Product. The Customer (a) holds the Product as bailee and fiduciary agent of Cheetham; and (b) must keep it in its possession and control, in good repair and condition, excluding fair wear and tear and stored separately and marked so that the Product is clearly and easily identifiable as Cheetham's property and inform Cheetham of the location of the Product, if requested. If the Product is lost or damaged after the Product is loaded onto the shipping vessel at the Port of Export and prior to payment, the Customer remains liable to pay Cheetham for all unpaid portion of payment for the Product.
- 11.3 **Proceeds of sale:** If the Customer sells the Product before payment in full to Cheetham or if the Customer uses the Product in a manufacturing or preparation process of its own or some third party, it must hold all of the proceeds of any sale or dealing in the Product on trust for Cheetham, and must keep such proceeds in a separate account as the beneficial property of Cheetham and the Customer must pay such amount to Cheetham on demand.
- 11.4 **Reservation of rights:** Notwithstanding any other provision to the contrary, Cheetham reserves the following rights in relation to the Product until all amounts owed in respect of the Product and all other Product supplied to the Customer by Cheetham at any time are fully paid (a) legal and equitable ownership of the Product (b) to retake possession of the Product and (c) to keep or resell any of the Product repossessed.
- 11.5 **Repossession:** The Customer grants full leave and irrevocable licence to Cheetham and any person authorised by Cheetham to enter upon any premises of the Customer where the Product is stored for the purpose of retaking possession of the Product. The Customer agrees that (a) it will be liable for all expenses incurred or suffered by Cheetham (whether direct or indirect) as a result of Cheetham retaking possession of the Product or otherwise exercising its rights under this clause; and (b) it will indemnify Cheetham for all fees (including legal fees on a full indemnity basis), costs and expenses incurred or suffered as a result of any and all prosecution, actions, demands, claims or proceedings brought by or against Cheetham in connection with retaking possession of the Product or the exercise by Cheetham of its rights under this clause, and the Customer must repay all such fees, costs, losses, damages, expenses or any other sums of money on demand.
- 12 Warranties**
- 12.1 Cheetham warrants that the Product sold is free from defective materials and workmanship. This warranty does not apply if:
- 12.1.1 the Customer has not notified Cheetham of the defect within the time period specified in clause 9.6;
- 12.1.2 the Product has not been stored in accordance with the instructions issued by Cheetham or in accordance with the product specifications published by Cheetham (as amended from time to time) at <https://www.cheethamsalt.com.au/product-specifications>;
- 12.1.3 the Product has been subject to any alteration by any person other than authorised in writing by Cheetham; or
- 12.1.4 the Customer fails to return the Product to Cheetham on its request to do so.
- 12.2 All other conditions and warranties of any type in relation to the Product are excluded to the maximum extent allowed by the law. The liability of Cheetham for a breach of any condition or warranty implied by law is limited at Cheetham's option to the repair of Product, or supply of a replacement, or payment of the cost of replacing the Product or of acquiring equivalent goods or payment of the cost of having the Product repaired.
- 12.3 Cheetham makes no representation as to the fitness of the Product supplied by it for any purpose unless Cheetham otherwise agrees to make such representation in this Agreement.
- 13 Insurance**
- 13.1 Unless otherwise agreed by the parties in writing, Cheetham will arrange the minimum insurance in accordance with CIF Incoterms© 2020.
- 13.2 The Customer may increase the coverage for the Product at its own costs and must insure the Product at its cost, when the Product is unloaded from the shipping vessel at the Destination Port until paid for in full, against such risks as are usual or common to insure against in a business of a similar nature to the Customer.
- 13.3 The Customer holds the proceeds of that insurance on trust for Cheetham up to the amount it owes Cheetham in respect of that Product, and must keep such proceeds in a separate account until the liability to Cheetham is discharged and must immediately pay that amount to Cheetham on demand.
- 14 Distribution of the Products**
- 14.1 If distribution of the Products is permitted in the Cheetham Salt Export Contract or Cheetham otherwise consents in writing, the Customer must:
- 14.1.1 comply with all applicable laws in the performance of its obligations and the exercise of its rights in this Agreement, including any laws applicable to the distribution of the Products;
- 14.1.2 not do anything which would or has the potential to adversely affect or damage the reputation of Cheetham or cause the value of the Trade Marks to depreciate.
- 14.2 The Customer indemnifies Cheetham for all loss incurred in relation to:
- 14.2.1 the sale or distribution of the Products by the Customer;
- 14.2.2 the use of the trade mark by the Customer, except to the extent that such loss is caused by Cheetham.
- 15 Limitation of liability:**  
Except for any rights and remedies that the Customer may have in respect of the Product which cannot be lawfully excluded, restricted or modified, Cheetham excludes any liability for any indirect or consequential loss including but not limited to any loss of revenue, loss of income, loss of business, loss of profits, loss of goodwill or credit, loss of business reputation, loss of future reputation or publicity, loss of use, loss of interest, damage to credit rating, or loss or denial of opportunity or any other loss or damage suffered by the Customer or any other person in connection with an act or omission of Cheetham and its employees or contractors and limits its total aggregate liability to the Price paid for the Product supplied under this Agreement.
- 16 Termination**
- 16.1 Cheetham may by written notice to the Customer terminate the Agreement if:
- 16.1.1 the Customer breaches any of its obligations under the Agreement;
- 16.1.2 the Customer becomes incapacitated, or ceases, or indicates that it is about to cease, to carry on business;
- 16.1.3 anything happens that reasonably indicates that there is a significant risk that the Customer is or will become unable to pay debts as they fall due; or
- 16.1.4 a step is taken to have a receiver, receiver and manager, provisional liquidator or administrator appointed to that person or any of its assets.
- 16.2 The Customer may only terminate the Agreement for breach of contract:
- 16.2.1 if it has provided Cheetham with written notice of the default and thirty (30) days to remedy the default; and
- 16.2.2 by written notice if Cheetham fails to remedy the default following the expiry of the thirty (30) days.
- 16.3 Clauses 11, 12, 13, 14.3, 14.4, 16, 17, 18, 19, 21.2, 23 and 24 survive the termination of the Agreement.
- 16.4 If the Agreement is ended because of the Customer's default and the Customer owes Cheetham money, the money is immediately payable to Cheetham and bears interest and Cheetham is entitled to enter the Customer's premises and repossess any Product in the Customer's possession or control to recover money payable to Cheetham.
- 17 Force Majeure:** Cheetham will not be liable for any loss incurred as a result of delay or failure to make any supply of Product or to observe any provisions of this Agreement due to an event of force majeure, being any cause or circumstance beyond Cheetham's reasonable control, including but not limited to, any lack of

production capacity or raw materials or transportation, strikes, lockouts, labour disputes, fires, floods, acts of God or public enemy, adverse weather conditions that may impact the production of Product, (for a period of up to 12 months after the date the relevant event ceases), malicious or accidental damage, delays in transport, breakdowns in machinery or restrictions or prohibitions by any government or any semi-governmental authorities, embargoes. During the continuance of an event of force majeure Cheetham's obligations under this Agreement will be suspended. The Customer must accept delivery of the Product notwithstanding any delay in delivery caused by any force majeure event.

## 18 Security Interest

- 18.1 The supply of Products by Cheetham to the Customer from time to time creates a pledge, lien, mortgage, charge and security interest (**Security Interest**) in favour of Cheetham over the Products and the proceeds of sale of the Products (together, the **Collateral**).
- 18.2 The Security Interest attaches to the Collateral (and it is not agreed that it will attach at a later time) and continues in the Products even if they are mixed or commingled with other products.
- 18.3 The Agreement (including in particular this document which contains the Security Interest) comprises the security agreement.
- 18.4 This document is adopted by the Customer when it signs this Agreement and each time the Customer takes physical possession of Products (irrespective of any rights the Customer may have to return the Products under clause 9.6).
- 18.5 The Customer must, immediately on request, do whatever Cheetham requires of the Customer to enable Cheetham to better exercise its rights pursuant to the Security Interest, to ensure the Security Interest is fully enforceable, perfected, has the priority required by Cheetham and to enable Cheetham to apply for any registration, give any notification in connection with the Security Interest or exercise any rights over the Collateral.
- 18.6 Cheetham may apply for any registration, or give any notification, in connection with the Security Interest and for whatever class of collateral Cheetham determines. The Customer consents to any registration or notification by Cheetham, and agrees not to make any amendment demand. The Customer indemnifies, and on demand will immediately reimburse, Cheetham for its costs, charges and expenses (excluding fees for registration of the Security Interest) incurred in connection with anything Cheetham does to perfect, preserve, enforce or protect or otherwise deal with the Security Interest.
- 18.7 Any payment made by the Customer to Cheetham may be applied by Cheetham in any manner it sees fit.
- 18.8 The Customer must not grant or create a pledge, lien, mortgage, charge and security interest over any part of the Collateral in favour of any party other than Cheetham without the prior written approval of Cheetham.

## 19 Confidentiality

- 19.1 A party agrees to maintain in confidence all information and trade secrets (including without limitation, the intellectual property rights and the terms of any agreement between the parties) of the other party (**Confidential Information**) and ensure that the Confidential Information is kept confidential.
- 19.2 The Customer agrees to not at any time divulge any information in relation to Cheetham's affairs or business or method of carrying on business. Unless prior written consent is granted by Cheetham.
- 19.3 The Customer agrees not to use the Confidential Information for any commercial purpose other than pursuant to this Agreement, and further agree not to publish or disclose the Confidential Information to any third person without the prior written consent of Cheetham.
- 19.4 The Customer agrees to take the same measures (being not less than reasonable measures) to protect the Confidential Information in its possession, as it takes to protect the confidentiality of its own confidential information.
- 19.5 The Customer acknowledges and agrees that Cheetham is relying on these confidentiality provisions to protect its strategic and other business information.
- 19.6 Each party may disclose the other party's Confidential Information if:
  - 19.6.1 the disclosure is required by law or the rules of any stock exchange;
  - 19.6.2 the Confidential Information is already in, or enters into, the public domain for reasons other than by reason of a breach of this Agreement; or
  - 19.6.3 the disclosure is only to its professional advisors to obtain professional advice and remains confidential.
- 19.7 The Customer will ensure that any employee to whom any disclosure is necessary to be made to is made aware of and subject to the Customer's obligations under this Agreement. The Customer is responsible and liable to Cheetham for any unauthorised

disclosure of Confidential Information by such persons as if the disclosure were a disclosure by the Customer.

- 19.8 The Customer acknowledges that any breach of these confidentiality obligations by the Customer may cause Cheetham irreparable harm for which damages would not be an adequate remedy. In addition to any other remedy available, Cheetham may seek equitable relief (including injunction or specific performance) against any breach or threatened breach of these confidentiality provisions.
- 19.9 The Customer must not release public or media statements nor publish material related to the existence of this Agreement without the prior written approval of Cheetham.
- 19.10 These confidentiality obligations survive the termination or expiration of this Agreement.

## 20 Intellectual Property

- 20.1 The Customer must ensure that it and all its agents, distributors and sub-distributors do not:
  - 20.1.1 without Cheetham's prior written consent, use any of Cheetham's trademarks, business names, designs, emblems, visual representations or slogans, or any intellectual property, trademarks, business names, designs, emblems, visual representations or slogans that are similar to, identical to or resemble those of Cheetham (**Intellectual Property**) (whether or not they are likely to cause deception or confusion among the public);
  - 20.1.2 register or attempt to register any Intellectual Property, trademarks, business names, designs, emblems, visual representations or slogans that are the same as or are deceptively similar to Cheetham's Intellectual Property;
  - 20.1.3 endanger, infringe, harm or contest the validity or ownership of Cheetham's Intellectual Property; or interfere with, try to stop or delay the use or registration of Cheetham's Intellectual Property.

## 21 Disputes

- 21.1 If a dispute arises in relation to this Agreement, either party must first give the other a notice requiring the parties to attempt to resolve the dispute using a mediator jointly appointed by the parties.
- 21.2 The mediation shall take place in accordance with the current Mediation Rules published by the Resolution Institute (**Rules**).
- 21.3 Unless otherwise agreed in writing, if the parties do not agree on a mediator within 7 days after the notice is given, the mediator is to be appointed by Resolution Institute. Each of the parties must cooperate fully with the mediator.
- 21.4 Each of the parties must pay an equal share of the fees and expenses the mediator is entitled to.
- 21.5 If a dispute has not been settled pursuant to the Rules within 60 days following the written invitation to mediate or any other period agreed in writing by the parties, the dispute must be resolved by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce (**ICC ADR Rules**).
- 21.6 Unless otherwise agreed in writing, all disputes arising out or in connection with the present contract shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the ICC ADR Rules. The seat of arbitration shall be Melbourne, Australia. The language of the arbitration shall be English. An arbitration clause does not prevent any party from requesting interim or conservatory measures from state courts. The costs of any arbitration shall be shared equally between the parties.

## 22 Liability for duty, taxes and charges

- 22.1 The Customer agrees to pay Cheetham any duty, tax or charge (except a tax or charge imposed on, or calculated by reference to, the net income of Cheetham) that is payable in relation to this Agreement or the transactions which it records.
- 22.2 The Customer must pay such amount immediately if it receives a written request to do so.

## 23 Compliance with laws

- 23.1 The Customer unconditionally and irrevocably warrants and covenants to Cheetham that it holds all applicable approvals, licences and rights from time to time necessary to import the Products into the country or territory of destination.
- 23.2 The Customer unconditionally and irrevocably warrants and covenants to Cheetham that if it is an agency, department or instrumentality of, owned or operated by, the government of any country or territory:
  - 23.2.1 its execution, delivery and performance of this Agreement constitutes private and commercial acts, rather than public or governmental or sovereign acts;

- 23.2.2 the Customer is subject to civil and commercial law and to legal proceedings; and
- 23.2.3 the Customer waives any right of immunity (governmental, sovereign or otherwise) which the Customer or any of its assets may have.
- 24 Anti-Bribery**
- 24.1 The Customer agrees that
- 24.1.1 it will not commit, authorise or permit any action which would cause Cheetham to be in violation of any applicable anti-bribery or anti-corruption laws or regulations;
- 24.1.2 this obligation applies in particular to illegal payments to government officials, representatives of public authorities or their associates, families or close friends; and
- 24.1.3 it will never offer or give, or agree to give, to any employee, representative or third party acting on Cheetham's behalf nor accept, or agree to accept from any employee, representative or third party acting on Cheetham's behalf, any gift or benefit, be it monetary or otherwise, that could breach any law or policy applicable to Cheetham.
- 24.2 The Customer will notify Cheetham immediately if it becomes aware, has reason to believe or has any specific suspicion that it has or will likely breach this clause 22 or there was corruption involved with regard to the negotiation, conclusion or performance of this Agreement.
- 24.3 Any breach of this clause 22 by the Customer, its employees, agents or sub-contractors (whether with or without the knowledge of the Customer will be deemed a material breach of this Agreement, and will entitle Cheetham to recover from the Customer the amount of any loss resulting from such material breach and to recover from the Customer the amount or value of any such gift, consideration or commission.
- 25 Miscellaneous**
- 25.1 **Incoterms© 2020:** In this Agreement, **Incoterms© 2020** means the 2020 edition of the 'ICC Rules for the Use of Domestic and International Trade Terms' published by the International Chamber of Commerce.
- 25.2 **Waiver:** Cheetham waives a right under this Agreement only if it does so in writing.
- 25.3 **Language:** This Agreement is executed in the English language and only the English language version of this Agreement is binding on the parties. Any translations are for convenience only and do not affect the construction of this Agreement.
- 25.4 **Relationship of the parties:** Nothing in this Agreement constitutes the parties as partners or as agents for each other. No party has any authority to bind the other or act on its behalf or to hold itself out as having the authority to do so.
- 25.5 **Assignment:** Cheetham may assign, novate or otherwise deal with the benefit of any contract made pursuant to the Agreement, without the prior consent of the Customer.
- 25.6 **Rights cumulative:** The rights and remedies provided in this Agreement will not affect any other rights or remedies available to Cheetham.
- 25.7 **Variation:** Cheetham may amend or vary this Agreement by notifying the Customer in writing of the amendment or variation or, in the case of the Conditions, by uploading the amended Conditions onto Cheetham's website (<http://www.cheethamsalt.com.au>). Each time the Customer places an order with Cheetham, the Customer agrees that the latest version of the Conditions available at Cheetham's website are the terms applicable to that order.
- 25.8 **Severability:** If any provision of this Agreement is unenforceable, illegal or void, that provision is severed and the other provisions of this Agreement remain in force.
- 25.9 **Notices:** Any notice to be given to a party under the Agreement must be in writing and must be sent by post or email to the address of that party shown in the quotation, purchase order or order acknowledgement. Notice is deemed to have been given at the time it would have been received in the normal course of post if sent by post, or if otherwise given at the time it was actually received.
- 25.10 **Indemnity:** The Customer indemnifies Cheetham from and against, and must pay Cheetham on demand for, all actions, costs, claims, demands, losses, expenses and liabilities howsoever arising (including those brought by third parties) sustained or incurred by Cheetham or its related entities or their respective officers, employees, consultants and agents as a result of any breach of the Agreement, negligence, wilful misconduct or fraud by the Customer or its related entities or their respective officers, employees, consultants and agents.
- 26 Governing law and jurisdiction**
- 26.1 This Agreement and any non-contractual rights arising out of or connected with this Agreement are governed by and construed in accordance with the law of Victoria, Australia without regard to principles of choice of law and the parties submit to the exclusive jurisdiction of the courts of that place. The parties will not object to the exercise of jurisdiction by those courts, either for forum non conveniens or on any other basis.
- 26.2 The operation of the United Nations Convention on Contracts for the International Sale of Goods 1980 is excluded in relation to all matters in connection with this Agreement.