1 INTERPRETATION

In these terms and conditions:

1.1 ‘Amounts Owing’ means all amounts owing by the Buyer and any of its Related Bodies Corporate to Sealed Air on any account or in any capacity;

1.2 ‘Buyer’ means the persons (including its/s their successors, personal representatives and permitted assigns) acquiring Supply from Sealed Air and who has paid the Contract price for such Supply with the written consent of Sealed Air and established an account with Sealed Air or has arranged an account with Sealed Air or, otherwise in full on receipt of delivery of goods or completion of work. Should the last day of the following calendar month fall on a weekend or public holiday, payment is required on the last working day of the month. Payments made under this clause must be made in full, without any set off, restriction, deduction, withholding or condition.

4 PAYMENT

4.1 Sealed Air will issue an invoice on delivery of the goods or performance of the services purchased. The Buyer must pay the entire amount of an invoice immediately on receipt of the invoice and within the 11 calendar day period following the date of the invoice where the Buyer has an existing account with Sealed Air or has arranged an account with Sealed Air, or otherwise in full on receipt of delivery of goods or completion of work. Should the last day of the following calendar month fall on a weekend or public holiday, payment is required on the last working day of the month. Payments made under this clause must be made in full, without any set off, restriction, deduction, withholding or condition.

4.2 If payment is not made in accordance with clause 4.1 Sealed Air will be entitled, exclusively and without prejudice to any other rights or remedies, to suspend or terminate any other order for the supply of goods for which any payment is outstanding or any other order for the supply of services for which payment is outstanding. Sealed Air may at its absolute discretion calculate interest on any overdue balance. The interest rate shall be calculated from the date of notification of the overdue amount.

4.3 Default by the Buyer under these payment provisions entitles Sealed Air to demand full payment immediately, under any then current agreement between the Buyer and Sealed Air or in respect of any other action then available to Sealed Air, may elect to terminate all or any of those other agreements immediately by notice in writing to the Buyer.

5 DELIVERY

5.1 Sealed Air must make all reasonable efforts to have the Supply delivered or performed on the date agreed between the parties as the delivery date, but Sealed Air shall be under no liability whatsoever should delivery not be made on the delivery date.

5.2 Unless otherwise agreed, Sealed Air shall select the route and means of delivery of the goods to the premises of the Buyer or premises nominated by the Buyer.

5.3 If the Buyer’s order or the delivery of any Supply is suspended by the Buyer’s instructions, Sealed Air may at its absolute discretion calculate interest on any extra expenses incurred by Sealed Air directly or indirectly as a consequence of the instructions or failure to instruct. If the Buyer is unable to accept delivery of the goods or the services purchased, Sealed Air may at its absolute discretion store the goods for despatch then Sealed Air may invoice the Buyer for storage of such goods.

6 RISK

6.1 Risk in the goods shall pass to the Buyer upon delivery of the goods to the Buyer or the agent of the Buyer or to a carrier commissioned by the Buyer. 6.2 Following delivery, the Buyer must, at its own expense, insure the goods against storm and tempest, loss or damage by fire, accident or malicious or negligent damage or other loss or destruction by reason of the Buyer’s failure to take all reasonable steps to maintain that insurance in the name of Sealed Air until title in the goods pass to the Buyer.

7 TITLE

The parties agree that the property in and title to the unused goods remains with the Supplier until the Buyer has paid the full purchase price for the unused goods.

8 DELIVERY

8.1 Sealed Air shall use all reasonable endeavours to the Buyer in writing, for, and the skill and expertise personnel shall be assigned to, perform the work or services in a prompt and efficient manner given the circumstances. Sealed Air will not, however, be responsible to the Buyer for any failure to perform the work or services within any time period or at any particular location.

8.2 The Buyer may give all reasonable instructions to ensure that Sealed Air personnel are able to safely and expeditiously commence and carry out the services immediately upon their arrival on site including providing any relevant health and safety instructions. The Supplier shall be responsible for ensuring that the work or services are performed in a prompt and efficient manner and in compliance with all relevant laws and regulations, and any other terms and conditions of trade applicable to the provision of the work or services.

8.3 If the Buyer has provided Sealed Air with a forecast of future requirements or (ii) the Supplier has manufactured goods based on production recommendations made by the Supplier to the Buyer then the Supplier shall be entitled to invoice, and deliver to, the Buyer all finished goods made to forecast / per recommendation (as applicable).

12 LIABILITY

12.1 Notwithstanding any other provision of the Contract and except to the extent that liability cannot be legally limited or excluded:

(a) the liability of Sealed Air pursuant to clauses 9, 10 and 11 above shall be limited to the price of the goods or services which are the subject of the replacement of the goods or the supply of equivalent goods; (ii) the repair of the goods; (iii) the payment of the cost of replacing or repairing the goods or or acquiring equivalent goods; and/or (iv) the re-performance of the services (as applicable).

(b) (but subject to clause 12.1(a)) Sealed Air (and its employees, affiliates, contractors and agents) shall under no circumstances be liable to the Buyer, its employees, affiliates, agents or contractors for any direct, indirect, incidental or consequential loss or damage arising directly or indirectly out of, or in any way attributable to the sale, delivery or performance of the Supply or the Contract.

12.2 No warranty is given and no responsibility is accepted by Sealed Air to ensure that goods supplied under this agreement comply with any statutory requirements relating to the marketing of goods. Compliance with such legislation is the Buyer’s sole responsibility. The limitations and exclusions of liability to the Buyer in this clause shall not apply with respect to the liability clause being implemented.

SALE & TERMS CONDITIONS OF SALE (NZ)
negligence or other tort or breach of contract of Sealed Air, under statute, a warranty, an indemnity, in equity or otherwise. The Buyer will provide Sealed Air with such supporting information as the Buyer may reasonably request so that Sealed Air may understand and address any product quality concerns.

13 INTELLECTUAL PROPERTY AND CONFIDENTIALITY
13.1 The sale to and the purchase by the Buyer of deliverables does not confer on the Buyer any copyright, patent, design or trade mark or any other intellectual property right which is the property of Sealed Air which shall include all tooling, materials, dies, designs, moulds, software, intellectual or industrial property and any information or data of all types and kinds, whether or not patentable or registrable, which in the possession of or contained in any goods or provision of any services. Title to all intellectual property subsisting in the Supply (including designs, drawings and patents) shall remain the exclusive property of Sealed Air or Sealed Air's third party suppliers or licensors.

13.2 All drawings and Specifications furnished by Sealed Air to the Buyer are copyright, confidential and supplied for the sole purpose of the particular contract concerned. The Buyer may not communicate any details of the drawing or technical specification or patent, trademark or other intellectual property to any third party without the written consent of Sealed Air and may not make any copies of or use the drawings or Specifications or any other sensitive information provided by Sealed Air for any purpose other than as expressly authorized by Sealed Air in writing. Sealed Air shall not be required to provide the Buyer with any manufacturing drawings, know-how, software source codes or details of manufacturing practices, processes or operations.

14 PRINTING, ARTWORK AND COMPOSITION
Any printing, artwork or composition that may be required by the Buyer will be done or deemed to have been done upon the instructions of the Buyer and the Buyer assumes all liability and agrees to indemnify and hold Sealed Air harmless in respect of all claims, costs, expenses, damages and liabilities that may result therefrom or any other Buyer-supplied information.

15 TERMINATION
If the Buyer fails to observe or perform any of the terms of the Contract, or (ii) is insolvent, a resolution is passed or proposed or an application filed for the winding up of the Buyer, or an administrator, receiver or receiver and manager, mortgagee in possession or other like officer is appointed in respect of the property of the Buyer under section 203 of the Bankruptcy Act or in respect of the assets of the Buyer under bankruptcy law, or the Buyer makes or proposes to make an arrangement with its creditors, or the Buyer is placed under official management or execution is levied upon the assets of the Buyer Sealed Air may at any time in its absolute discretion terminate the Contract in whole or in part and deal with the equipment, goods and materials under the Contract by notice in writing to the Buyer but without prejudice to the other rights of Sealed Air at law or under the Contract.

16 FORCE MAJEURE AND FRUSTRATION
Sealed Air shall use all reasonable endeavours to fulfil its contractual obligations but if an event of force majeure occurs or the Contract becomes impossible to perform or is otherwise frustrated, Sealed Air shall be excused from its obligations hereunder without recourse from the Buyer. The Buyer shall not be liable to pay to Sealed Air all costs which suppliers or sub-contractors of Sealed Air have inured directly or indirectly, or for which Sealed Air is liable, as a result of a delay caused by an event of force majeure, frustration, impossibility of performance or an act or omission of the Buyer or its agents or contractors. Sealed Air shall not however require payment for any standard parts or materials which Sealed Air may be able to use at the time in any other contract then current. Any prepayments which may have been made to Sealed Air under the Contract shall be returned to the Buyer. Sealed Air may at any time cease to have any liability under this Contract for any reason of such sum as may become due to it and the excess (if any) prepayment shall be refunded to the Buyer. An "event of force majeure" means anything outside Sealed Air's reasonable control including but not limited to fire, storm, flood, earthquake, epidemic, war, insurrection, reoccupation, sabotage, robbery, labour dispute, labour shortage, failure or delay in transportation, act or omission (including laws, regulations, codes and standards, disapprovals or failures to approve) of any third person (including, but not limited to subcontractors, customers, suppliers, governmental or government agencies).

17 NOTICE
A notice given by Sealed Air to the Buyer or the Buyer to Sealed Air must be in writing, be left at or sent by registered post or facsimile or email requesting receipt confirmation to the address in the applicable Quotation.

18 TAXES
Unless otherwise stated, the prices quoted are exclusive of any taxes, including GST. In this case itemized goods are treated as an original version.