

PURCHASE ORDER GENERAL CONDITIONS

1. Creation of Contract

- 1.1 The Contract comprises the following documents only:
- (a) the Purchase Order;
 - (b) all documents attached to or expressly incorporated into the Purchase Order;
 - (c) these General Conditions; and
 - (d) any other terms which the Company has expressly agreed in writing to include in the Contract,
- (collectively referred to as the **Contract**).
- 1.2 Any terms and conditions proposed by the Supplier (whether in a quotation, invoice, delivery note or otherwise) are expressly excluded and will have no effect, unless expressly agreed in writing by the Company.
- 1.3 The Contract is formed once the Supplier:
- (a) acknowledges receipt of the Purchase Order in writing; or
 - (b) commences the performance of any requirements of the Purchase Order, without written acknowledgement which shall be deemed to be acceptance that these General Conditions apply to the Supply, unless the Company notifies the Supplier to the contrary.
- 1.4 In the event of any inconsistency between the documents forming part of the Contract, they will be interpreted in the following descending order of priority:
- (a) the Purchase Order;
 - (b) all documents attached to or expressly incorporated into the Purchase Order;
 - (c) these General Conditions; and
 - (d) any other terms which the Company has expressly agreed in writing to include in the Contract.

2. Supply of Services

- 2.1 The Supplier must from the date set out in the Purchase Order and for the duration of the Contract supply the Services to the Company in accordance with the terms of the Contract.
- 2.2 The Supplier must meet any performance dates for the Services specified in the Purchase Order or that the Company notifies to the Supplier in writing from time to time.
- 2.3 In performing the Services, the Supplier must:
- (a) comply with all Authorisations, laws and regulations applicable to the provision of the Services and all reasonable requirements, instructions or directions of the Company;
 - (b) perform the Services with all due care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (c) obtain and maintain all Authorisations which are necessary for the provision of the Services;

- (d) use personnel who are suitably qualified, experienced and skilled to perform tasks assigned to them;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) ensure that the Services will conform with all descriptions, standards and specifications set out in the Purchase Order (if any); and
- (g) ensure that the Deliverables are fit for any purpose that the Company expressly makes known to the Supplier in writing.

- 2.4 The Company may inspect and review the Services at any time. Such inspection or review shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3. Supply of Goods

- 3.1 In supplying the Goods, the Supplier must:
- (a) comply with all Authorisations, laws and regulations applicable to the supply of the Goods and all reasonable requirements, instructions or directions of the Company;
 - (b) obtain and maintain all Authorisations which are necessary for the supply of the Goods;
 - (c) ensure that the Goods comply with their description and any applicable any specification, description, plan, drawing, data, sample or other information relating to the Goods set out or referred to in the Purchase Order or otherwise provided by the Company to the Supplier;
 - (d) ensure that the Goods are fit for any purpose that the Company expressly makes known to the Supplier in writing;
 - (e) sell the Goods to the Company free of Encumbrance;
 - (f) if the Contract specifies that the Supplier must deliver the Goods, then the Supplier must deliver the Goods on the Delivery Terms to the Delivery Location at the Delivery Time; and
 - (g) if the Contract specifies that the Supplier must install the Goods, then the Supplier must deliver the Goods on the Delivery Terms to the Delivery Location at the Delivery Time and install the Goods as directed by the Company.

- 3.2 The Company may inspect and test the Goods at any time. Such inspection or review shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3.3

4. Title and Risk

- 4.1 Title in the Supply passes to the Company on payment for the Supply.
- 4.2 Risk in the Goods passes to the Company on the later of:
- (a) at the time the Goods are delivered to the Delivery Location; and
 - (b) at the time the Goods are installed at the Delivery Location,

and where Goods are returned pursuant to clause 8.4, risk in the Goods reverts to the Supplier.

5. Site Access

- 5.1 The Company will give the Supplier and its Personnel access to the Site or as otherwise agreed in writing.
- 5.2 The Supplier and its Personnel must comply with all Site rules, policies, procedures and reasonable directions of the Company (including in relation to safety, security and environmental matters) while on Site.
- 5.3 The Company may require the Supplier's Personnel to complete a Site induction or other training before commencing work on Site. The Supplier must ensure its Personnel attend and successfully complete any such induction or training.
- 5.4 The Supplier acknowledges and agrees that it will not have exclusive possession of the Site, but only access to the areas allocated by the Company as are reasonably necessary to enable it to perform the Supply.
- 5.5 The Supplier must co-operate with and not impede or obstruct the Company, its Personnel and any other contractors and suppliers (whether employed or engaged by the Company or not) and give them any information or data reasonably necessary or expedient to ensure proper performance of their respective work.
- 5.6 The Supplier is not entitled to any claim as a result of any interference from other contractors and suppliers (whether employed or engaged by the Company or not).
- 5.7 The Supplier is responsible for assessing and satisfying itself that the Site and all other places accessed by the Supplier and its Personnel in performing the Contract are suitable for the Supply.
- 5.8 The Company may, at any time and for any reasonable reason relating to safety, security or operational requirements, direct the Supplier or any of its Personnel to leave the Site. The Supplier must immediately comply with any such direction and is not entitled to any claim arising from such direction.
- 5.9 The Supplier must immediately notify the Company of any incident occurring on Site involving the Supplier or its Personnel, including any accident, near-miss, property damage or environmental incident.

6. Subcontracting

- 6.1 The Supplier must not subcontract the performance of the Contract or any part of it without the prior written consent of the Company, which consent must not be unreasonably withheld or delayed.
- 6.2 No subcontract, whether or not consented to by the Company, will relieve the Supplier of any of its obligations or liabilities under the Contract.
- 6.3 The Supplier is responsible for the acts and omissions of its subcontractor and their Personnel as if they were the acts and omissions of the Supplier.
- 6.4 The Supplier must ensure that each subcontract includes provisions that enable the Company to inspect or test any part of the Supply performed by the subcontractor.

7. Payment

- 7.1 In consideration for the performance of the Contract, the Company will pay to the Supplier the Contract Price.
- 7.2 The Supplier must submit a Tax Invoice each month for amounts due to the Supplier in accordance with the Contract.
- 7.3 The Supplier must, promptly upon request by the Company, provide the Company with a detailed breakdown of each cost item comprised in the Contract Price.
- 7.4 Unless expressly stated otherwise in the Contract, the Contract Price is exclusive of GST. The Company must pay to the Supplier an additional amount equal to any GST payable in respect of any taxable supply made under the Contract, at the same time as the Contract Price (or relevant part of it) is payable. The Supplier must be registered for GST and must provide its Australian Business Number and a valid Tax Invoice in accordance with the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) before the Company is obliged to make any such payment.
- 7.5 The Company must pay undisputed amounts within 30 days from the date the Tax Invoice is received by the Company. The Company may withhold disputed amounts and will notify the Supplier in writing of any dispute.
- 7.6 Payment does not indicate or evidence:
 - (a) the Company's acceptance, approval, consent or satisfaction with the Supply; or
 - (b) the value of such Supply,but is payment on account only.
- 7.7 Unless expressly stated otherwise in the Contract:
 - (a) the Contract Price is inclusive of all costs, expenses, fees, duties, excises, imposts, levies and taxes (other than GST) incurred by the Supplier in performing the Contract;
 - (b) the Contract Price is not subject to adjustment, rise and fall or indexation; and
 - (c) the Supplier bears all customs, import and anti-dumping duties.
- 7.8 All payments are in the currency set out in the Purchase Order and, to the extent that the payment is made in a currency other than Australian dollars, the Supplier bears the risk of foreign exchange rate fluctuations on and after the date of the Contract and is not entitled to demand payment of a higher amount due to any such fluctuations.
- 7.9 The Company may at any time, without notice to the Supplier, set off any liability of the Supplier to the Company against any liability of the Company to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract, provided that the Company may not set off any amount that is the subject of a genuine Dispute. Any exercise by the Company of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

8. Defects

- 8.1 The Supplier warrants the Supply and each part of the Supply against any Defect for the Defects Liability Period.
- 8.2 If either party discovers a Defect during the Defects Liability Period, that party must promptly notify the other party in writing with full details of the Defect.
- 8.3 Upon becoming aware of a Defect (whether by notice under clause 8.2 or otherwise), the Company may direct the Supplier, at the Supplier's cost, to make good or replace (as the case may be) any Defects in the Supply, so that it is in a proper working condition as quickly as possible.
- 8.4 If the Supplier fails to remedy the Defect within 10 Business Days (or such longer period as agreed by the Company) of receiving written notice from the Company to do so, to the reasonable satisfaction of the Company, the Company may, without limiting any other right the Company may have against the Supplier in respect of the Defect:
- (a) return any Supply that has a Defect to the Supplier at the Supplier's expense;
 - (b) treat the failure to remedy the Defect as a breach of Contract entitling the Company to exercise its rights under clause 11; and/or
 - (c) remedy such Defect itself or engage a third party to make good or rectify the Defect at the Supplier's risk and expense.
- 8.5 If the Supply is returned under clause 8.4(a), the Supplier must reimburse the Company for any amounts paid to the Supplier pursuant to an invoice or otherwise in respect of the returned Supply.
- 8.6 A further Defects Liability Period of 12 months will apply to any rectified or replaced Supply commencing on the date such rectified or replaced Supply is accepted by the Company.

9. Intellectual Property

- 9.1 The parties acknowledge that all Background IP remains the property of the party that owns it and nothing in this Contract operates to transfer or assign any Background IP from one party to the other.
- 9.2 The Supplier acknowledges and agrees that all Contract IP vests in the Company and is the Company's property as and when created.
- 9.3 The Supplier hereby assigns and must ensure that all of its Personnel assign all of their respective rights, title and interests in and to the Contract IP to the Company without any Encumbrances.
- 9.4 The Supplier hereby grants to the Company a non-exclusive, transferable, royalty-free, irrevocable and perpetual licence to use, reproduce and sub-license all Supplier IP solely for the purposes of receiving, maintaining and exploiting the Goods and/or Services supplied under the Contract.
- 9.5 The Supplier must procure for the Company an irrevocable, perpetual, royalty-free licence (including the right to sub-license) to use, modify, reproduce and exploit all Intellectual Property Rights of third parties that are supplied by the Supplier or otherwise comprised in the Goods and/or Services, to the extent necessary for the Company to have the full enjoyment, use and benefit of the Goods and/or Services.
- 9.6 The Supplier warrants to the Company that:

- (a) it has the right to assign all Contract IP to the Company under clause 9.3;
- (b) it has the right to grant to the Company the licence under clause 9.4; and
- (c) the Company's use of the Supplier IP or the Contract IP will not infringe on the Intellectual Property Rights of any other person.

10. Insurance

- 10.1 For the duration of the Term, the Supplier must effect and maintain:
- (a) professional indemnity insurance to a minimum value of \$1,000,000 for each claim (or such other amount as may be agreed between the parties in the Purchase Order) in respect of liability arising by reason of any act, error or omission of the Supplier or its Personnel in the performance of the Supply;
 - (b) if the performance of the Contract requires the Supplier to use Plant and Equipment, insurance covering all loss of and damage to the Plant and Equipment for its replacement value (or require the owner of the Plant and Equipment to maintain such insurance);
 - (c) any insurance required by law; and
 - (d) if the performance of the Contract involves the use of vehicles, third party liability insurance covering all Liability in respect of any injury to, or death of, any person or any loss, damage or destruction to any property arising from the use of motor vehicles.
- 10.2 Upon the request by the Company, the Supplier must provide the Company with an insurance certificate of currency or such other evidence as the Company may require that the Supplier and its subcontractors are insured in accordance with the Contract.

11. Termination and Default

- 11.1 If:
- (a) the Supplier has suspended the progress of the Supply without due cause for more than 5 days after the Commencement Date;
 - (b) the Company reasonably considers that the Supplier is unable or unwilling, to perform and complete the Supply in the manner specified in the Contract at the rate of progress that gives reasonable assurance to the Company that the Supplier can achieve completion by the Completion Date;
 - (c) the Supplier suffers an Insolvency Event;
 - (d) the Supplier is persistently non-compliant with any obligation under this Contract; or
 - (e) the Supplier defaults in the performance of any material provision of this Contract,
- then the Company may on giving notice to the Supplier:
- (f) immediately terminate the whole or any part of the Contract; or
 - (g) suspend payment under the Contract until the breach has been remedied.

and acquire the Supply (or the nearest reasonably available substitute for the Supply) from a third party,

in which case any additional cost incurred by the Company in doing so is immediately payable by the Supplier to the Company on demand.

- 11.2 If the Company fails to make a payment which is due to the Supplier under the Contract, and in respect of which:
- (a) the Company is not entitled, whether under the Contract or otherwise, to suspend, withhold, deduct or set off; and
 - (b) there is no Dispute as to the Company's obligation to pay,
- the Supplier may give a Default Notice to the Company requesting the Company to pay that amount.
- 11.3 If the Company fails to make the payments referred to in the Default Notice within 20 days of the Default Notice without just cause, the Supplier may on notice to the Company:
- (a) suspend performance of the Contract notwithstanding any provisions to the contrary contained in the Contract; and
 - (b) if the Company fails to pay within 10 days of the suspension of the Contract, the Supplier may terminate the Contract by written notice to the Company.
- 11.4 In the event of either party giving a notice of termination in accordance with this clause 11, the Contract will terminate on the date that the notice is received or such later date as is specified in the notice.
- 11.5 No action taken by the Company under clause 11 will limit the rights, remedies, powers, authorities, discretions, accrued liabilities and accrued obligations of the parties (all of which will continue in full force and effect as if there had been no such termination).
- 11.6 In the event of either party giving a notice of termination in accordance with clause 11, the Supplier must:
- (a) immediately cease performance of the terminated Supply or part of the Supply subject to any directions made by the Company;
 - (b) comply in all respects with any directions contained in the termination notice or any directions otherwise given by the Company;
 - (c) take all possible action to mitigate any liabilities incurred by it as a result of such termination;
 - (d) within 5 days after the termination notice, provide the Company with a detailed report in such form as the Company may require in relation to the Supply performed and Goods supplied up to and including the date of the termination notice; and
 - (e) return to the Company any items issued to the Supplier by the Company during the Term as soon as reasonably practicable.
- 11.7 Clauses 9, 11, 14, 15, 16, 17, 18 and any other provision intended to survive termination or expiry or required to give effect to termination will survive termination or expiry of the Contract.

12. Dispute Resolution

- 12.1 If at any time there is any Dispute, either party may notify the other party in writing of the existence and nature of a Dispute (**Dispute Notice**).
- 12.2 Promptly after the date of receipt by the other party of the Dispute Notice (**Notice Date**), senior representatives of each party must meet to discuss and attempt to resolve the Dispute.
- 12.3 If the parties fail to resolve the Dispute within 20 days of the meeting in clause 12.2, then either party may commence legal proceedings to resolve the Dispute.
- 12.4 The parties' obligations under the Contract will continue despite the existence of a Dispute.
- 12.5 Nothing in this Contract prevents either party from seeking injunctive, declaratory or other equitable relief in any court.

13. Representations and Warranties

- 13.1 The Supplier warrants and represents to the Company that:
- (a) it has the capacity, authority and power to enter into and perform its obligations under the Contract and sufficient financial, technical and other resources to perform its obligations under the Contract;
 - (b) it has not suffered an Insolvency Event and nothing has occurred which would deem it to have suffered an Insolvency Event;
 - (c) unless expressly stated in the Contract, it does not enter into the Contract as agent or as trustee of any trust;
 - (d) if it enters into the Contract in its capacity as trustee, it does so in both its personal capacity and in its capacity as trustee of the trust and is entitled to an unlimited right of indemnity in respect of the assets of the trust for those obligations;
 - (e) the Supply will, unless otherwise stated in the Contract, be new on delivery to the Company;
 - (f) the Supply conforms with any description applied to the Goods and any sample of them provided by the Supplier prior to the date of the Purchase Order;
 - (g) the Supply meets the Company's requirements, and is fit for the purpose of those requirements;
 - (h) the Supply is free of any defects in materials, workmanship or installation;
 - (i) the Supply conforms to all applicable laws, regulations and Australian standards;
 - (j) the Supply is of merchantable quality; and
 - (k) the Supply does not and will not infringe the Intellectual Property Rights of any person.
 - (l) it has the benefit of all manufacturer's and third party warranties in respect of the Supply;
 - (m) it will not do anything which would void or prejudice any manufacturer's or third party warranty in respect of the Supply; and
 - (n) the Supply and the Supplier's performance of the Contract will comply with all applicable laws, regulations and standards.

- 13.2 The Supplier repeats each warranty in clause 13.1 on each day it has outstanding obligations under the Contract.
- 13.3 If the Supplier breaches a warranty in clause 13.1, the Company may at its option and without prejudice to any of its other rights, require the Supplier to remedy the breach, including by re-supply of the Goods or re-performance of the Services.

14. Limitation on Liabilities and Indemnities

- 14.1 Subject to clause 14.4, the Supplier indemnifies and must keep indemnified the Company and its Personnel (**Indemnified Parties**) from and against, and must pay to the Indemnified Parties on demand, an amount equal to all Loss suffered or incurred by an Indemnified Party in connection with:
- (a) any breach by the Supplier or its Personnel of any of the Supplier's obligations under the Contract;
 - (b) any illness, injury or death of any person which is caused or contributed to by the Supplier or its Personnel;
 - (c) any loss, destruction of or damage to any property which is caused or contributed to by the Supplier or its Personnel;
 - (d) any negligent act or omission by the Supplier or its Personnel;
 - (e) the Wilful Default of the Supplier or its Personnel; or
 - (f) any infringement or alleged infringement of the Intellectual Property Rights of any person arising out of or in connection with the Supply.
- 14.2 The indemnity in clause 14.1 is a continuing obligation separate and independent of any other obligation and survives termination, completion or expiry of the Contract.
- 14.3 The Supplier's total aggregate liability under clause 14.1 (other than in respect of claims under clauses 14.1(b), 14.1(c) or 14.1(e), or claims arising from fraud) is limited to the greater of:
- (a) two times the Contract Price; or
 - (b) the amount recoverable under the Supplier's insurance policies required under clause 10.
- 14.4 To the maximum extent permitted by law, neither party will be liable to the other party for Consequential Loss, whether arising out of or in connection with the Contract, under statute, in tort (for negligence or otherwise) or any other basis in law or equity, other than as a result of its wilful misconduct or fraud.

15. Confidentiality

- 15.1 The Supplier must keep confidential all information from or concerning the Company that it acquires as a result of any dealings with the Company, including as a result of the Contract. This obligation survives the expiry or termination of the Contract.
- 15.2 The Supplier must, and must ensure that its Personnel do, not use or disclose the Confidential Information for any purpose other than as is necessary for the performance of the Contract.
- 15.3 Clause 15.1 does not prevent the Supplier or its Personnel from using or disclosing the Confidential Information if:

- (a) it is required by law, the rules of a recognised stock exchange or a regulatory direction;
- (b) the information is already in the public domain (other than through breach of this clause 15); or
- (c) the disclosure is made to the Supplier's professional advisers, auditors or insurers on a confidential basis and solely to the extent necessary for them to perform their functions.

- 15.4 At the Company's request, the Supplier must, and must procure its Personnel to, deliver up, delete or destroy any physical or electronic documents containing such Confidential Information (including any copies and anything derived from such information).
- 15.5 Before making any disclosure under clause 15.3 and to the extent practicable, the Supplier must, and must procure its Personnel:
- (a) give the Company reasonable written notice of the circumstances of the required disclosure and the Confidential information it proposes to disclose;
 - (b) if time permits, consult with the Company as to the form of the disclosure; and
 - (c) use its best endeavours to delay and withhold disclosure until the Company has had a reasonable opportunity to oppose the disclosure by lawful means.
- 15.6 The obligations under this clause 15 survive termination or expiry of the Contract and continue for a period of two years from the date of termination or expiry.

16. Notices

- 16.1 Any notice given to a party under or in connection with the Contract must be in writing, in English and must be delivered:
- (a) by hand;
 - (b) by registered post; or
 - (c) by email,
- to the addresses set out in the Purchase Order (or if no address is specified, to the party's registered office or principal place of business), or by email to an email address notified by that party, or to such other addresses notified by a party from time to time.
- 16.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;
 - (b) if sent by registered post to an address in the country of despatch, at 9:00 am on the second Business Day after posting;
 - (c) if sent by registered post to an address overseas, at 9:00 am on the tenth Business Day after posting; or
 - (d) if sent by email, at the time of transmission,
- and if this time falls outside business hours in the place of receipt, on the following Business Day.

17. Miscellaneous

- 17.1 The Supplier may not assign or novate the Contract or any part of it except with the prior written consent of the Company (which the Company may, in the

Company's absolute discretion, refuse to consent or approve without giving reasons or may give that consent or approval on whatever terms and conditions the Company may think appropriate).

- 17.2 The Contract, as amended from time to time in accordance with its provisions, represents the entire agreement between the parties and supersedes all prior arrangements.
- 17.3 Unless expressly stated otherwise in the Contract, time is of the essence in respect of the Supplier's obligations under the Contract.
- 17.4 The Supplier acknowledges that the Company enters into this Contract in its own right and for its own benefit and also in its capacity as trustee for and for the benefit of its Related Bodies Corporate and this intent and trusteeship will not in any way be limited by any rights granted directly to such Related Bodies Corporate under this Contract or otherwise.
- 17.5 Where ownership of anything is granted to, or any other rights are held by, the Company under this Contract, the Company will hold the same in its own right or in its capacity as trustee for the relevant Related Body Corporate.
- 17.6 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership, employment or joint venture between the parties, constitute either party the agent or employee of the other, or authorise either party to make or enter any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 17.7 Except as set out in these General Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by authorised signatories for each party.
- 17.8 Any provision of the Contract which is void, unenforceable or illegal in any jurisdiction will be read down to the extent necessary for it to be valid and enforceable. If it cannot be read down, the provision must be severed but only to the extent necessary for the Contract to be valid and enforceable.
- 17.9 The waiver partly or wholly of the terms of the Contract will:
- (a) be valid only if in writing and signed by the party giving the waiver;
 - (b) apply to a particular occasion only;
 - (c) not be continuing unless expressed to be so; and
 - (d) not constitute a waiver of any other condition or term.
- 17.10 If the Contract is a 'consumer contract' or 'small business contract' (each as defined in the Australian Consumer Law in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) (ACL)) and a term of that Contract would, but for this clause, be 'unfair' (as defined in section 24(1) of the ACL), the Company may only apply or rely upon that term to the extent that doing so is reasonably necessary to protect the Company's legitimate interests.
- 17.11 The parties will do all things and execute all documents required to permit or facilitate the performance of the transactions contemplated by the Contract.

- 17.12 The rights and remedies of a party under the Contract are cumulative and not exclusive of any other rights or remedies provided by law.
- 17.13 Each party bears its own costs of negotiating, preparing and performing its obligations under the Contract.
- 17.14 The Contract may be executed in counterparts. The parties acknowledge and agree that this Contract and all transactions under it may, subject to applicable laws, be executed electronically.
- 17.15 The Contract is governed by the laws of Western Australia, and each party irrevocably submits to the non-exclusive jurisdiction of the Courts of Western Australia.

18. Definitions and Interpretation

In these General Conditions, unless a contrary intention appears:

Authorisation means any approval, declaration, authorisation, certificate, consent, exemption, filing, licence, notarisation, permit, registration, ruling, statutorily required policy of insurance or waiver (and any renewal or variation of any of them) by or with an Authority.

Authority means:

- (a) any government or regulatory department, body, instrumentality, minister, agency or other authority; or
- (b) any other person exercising an authority granted to it under an applicable law.

Background IP means all Intellectual Property Rights of a party that:

- (a) are in existence at the Commencement Date; or
- (b) that the party can demonstrate came into existence after the Commencement Date otherwise than in connection with the Contract.

Business Day means a day other than a Saturday or Sunday or a day that is partly or wholly observed as a public holiday in Perth, Western Australia.

Company means Jindalee Lithium Limited ACN 064 121 133 and its successors and assigns.

Commencement Date means the date specified as the commencement date in the Purchase Order, or if no date is specified, the date on which the Contract is formed in accordance with clause 1.3.

Completion Date means the date by which the Supply must be completed, as specified in the Purchase Order or otherwise communicated to the Supplier by the Company.

Confidential Information means any information which is by its nature confidential or commercially sensitive and includes all technical, proprietary and operational information, drawings, techniques, processes, know-how, methods of working, data and specifications, trade secrets, customer information and other commercially valuable information of any kind, and the terms of the Contract.

Consequential Loss means any loss of business, loss of production, loss of goodwill, loss of opportunity, loss of data, loss of reputation, and any loss of actual or anticipated profit or revenue, whether arising directly or indirectly.

Contract has the meaning given to that term in clause 1.1.

Contract IP means all Intellectual Property Rights (present or future) created, discovered or coming into existence in connection with the performance of the Contract (including all Intellectual Property Rights in anything developed by the Supplier or its Personnel in performance of the Contract).

Contract Price means the total amount payable by the Company for the supply of all Goods and/or the performance of all Services under the Contract, being either:

- (a) the fixed lump sum amount set out in the Contract; or
- (b) the total fees, charges and disbursements of the Supplier in performing the Contract calculated at the agreed rates or on the agreed basis set out in the Contract;

DDP means that term as defined by the International Chamber of Commerce Incoterms 2020.

Defect means any design error, defect, deficiency, omission, non-conformity, failure, malfunction or irregularity, or other defect in or to the Supply, or any component or spare part (including in any design, materials or workmanship), and any failure of these to comply with this Contract (including any warranties given in relation to the Supply in whole or in part).

Defects Liability Period means a period of 12 months commencing on the date the Supply was accepted.

Default Notice means a written notice from the Supplier to the Company stating that the Company has failed to make a payment which is due under the Contract and requesting payment of that amount.

Deliverables means all documents, products, designs, reports, specifications, plans and other materials or items of any kind developed, provided or to be provided by or on behalf of the Supplier as part of or in relation to the Services.

Delivery Location means the place for delivery of the Goods and/or Services (as applicable) as stated in the relevant Purchase Order.

Delivery Time means the time for delivery of the Goods as stated in the Purchase Order, or if no time is specified, within a reasonable time.

Delivery Terms means DDP (Incoterms 2020), unless the Contract specifies otherwise.

Dispute means any dispute, controversy, or claim of any kind or type, whether based in contract, tort, statute, regulation, or otherwise, arising out of, relating to, or connected with the Contract, the Goods and/or the Services, including any dispute concerning the formation, existence, validity, interpretation, performance, breach, or termination of the Contract.

Encumbrance means any mortgage, charge, pledge, lien, security interest, title retention arrangement, preferential right, trust arrangement, contractual right of set-off or any other security arrangement or interest of any kind.

General Conditions means these general conditions.

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Goods means:

- (a) the goods referred to on the front of the Purchase Order;
- (b) any other goods expressly or impliedly agreed to be supplied to the Company by the Supplier in connection with the Purchase Order; and
- (c) any other goods supplied to the Company by the Supplier, to the extent these Conditions apply to the supply of those goods;

Intellectual Property Rights means intellectual property and rights including any copyright, trademarks, patents, designs, circuit layout rights, the right to protect Confidential Information, know-how and trade secrets and any application or right to apply for registration of any of those rights.

Insolvency Event means, in respect of a party, that party:

- (a) is unable to pay its debts as and when they fall due;
- (b) has a controller, administrator, liquidator, provisional liquidator or similar officer appointed;
- (c) enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;
- (d) has any petition, application, order or resolution for its winding up or dissolution; or
- (e) is otherwise deemed to be insolvent under any applicable law.

Liability means all liabilities, damages, remedies, losses, penalties, fines, costs, expenses (including legal fees and expenses on a full indemnity basis), demands, claims and proceedings of any nature.

Loss means any liability, loss, claim, action, damage, cost, charge or expense (including legal costs on a full indemnity basis) of any nature.

Personnel means, in relation to a party, any employee, officer, agent, contractor or subcontractor of that party (but excluding the other party and its Personnel).

Plant and Equipment means all machinery, plant, equipment, tools, consumables, temporary buildings, appliances, scaffolding, form work and other items of a similar nature used for or in relation to the performance of the Contract (but not including any Deliverables or Goods).

Purchase Order means a purchase order issued by the Company to the Supplier.

Related Body Corporate has the meaning given in the *Corporations Act 2001* (Cth).

Services means:

- (a) the services referred to on the front of the Purchase Order;
- (b) any other services expressly or impliedly agreed to be supplied to the Company by the Supplier in connection with the Purchase Order; and
- (c) any other services supplied to the Company by the Supplier, to the extent these Conditions apply to the supply of those services.

Site means the places and locations to be made available to the Supplier by the Company for the

purpose of the Supplier performing the Services or for any other purpose under the Contract.

Supplier means the person to whom the Purchase Order is addressed.

Supplier IP means the Supplier's Background IP that is incorporated in or required to be used with anything supplied under the Contract.

Supply means the supply and manufacture of Goods, the provision of Services (including any Deliverables forming part of the Services) and all other things to be performed in accordance with the Contract.

Tax Invoice has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Term means the period commencing on the Commencement Date and ending on the earlier of:

- (a) the date that all obligations under the Contract have been performed, including with respect to any Defects;
- (b) the expiry of any fixed term specified in the Purchase Order; or
- (c) the date on which the Contract is terminated in accordance with its terms.

Variation means any increase, decrease or omission to the Goods and/or Services to be supplied or performed under the Contract.

Wilful Default means any fraudulent, dishonest or criminal act or omission, or any deliberate or reckless breach of, or deliberate or reckless failure to comply with, the Contract or any applicable law in connection with the Contract.

18.1 In the Contract, unless a contrary intention appears:

- (a) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (b) the plural includes the singular and vice versa;
- (c) a reference to this Contract or another instrument includes any Variation or replacement of any of them;
- (d) references to natural persons include corporations and vice versa;
- (e) a provision of these Conditions must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of these Conditions or the inclusion of the provision in the Contract;
- (f) a reference to a law includes a modification, re-enactment or substitution for it, and a requirement issued under or derived from it.
- (g) words such as "including" or "for example" are not words of limitation;
- (h) if a party includes two or more persons, an obligation of those persons is joint and several, a right of those persons is held by each of them separately, and any other reference to that party or term is a reference to each of those persons separately; and
- (i) where the Contract states a direction is to be or may be given by the Company, that direction may be given by an authorised representative of the Company.