



## Supplier Terms of Trade

1. These terms of trade apply to any and all transactions between the Company (as defined below) and the Supplier (as defined below) relating to the provision of Products (as defined below) including, but not limited to, quotations, contracts and variations. These terms of trade take precedence over any terms of trade contained in any documents of the Supplier or elsewhere.

### 1.1. DEFINITIONS, INTERPRETATION, AND EXHIBITS

**Definitions.** In this Contract, these capitalised words or expressions have the following meanings:

**"Affiliate"** means any legal entity that controls, is controlled by, or is under common control with, another legal entity. An entity is deemed to "control" another if it owns directly or indirectly at least 50% of the shares or interests entitled to vote.

**"Applicable Law"** means any law, regulation, statute, code, rule, order, guidelines, memoranda, permit, policy, licence, certification, decree, or standard having the effect of law or similar legally effective measure that applies to this Contract.

**"Claim"** means any claim, liability, loss, demand, damage, cost, Lien, cause of action of any kind, obligation, requirement, clean-up costs, penalty, fine, interest and award, and whether arising by law, contract, tort (including negligence), voluntary settlement, or in any other manner.

**"Company"** is Integrated Industrial Pty Ltd ACN 123 184 252 of 10 Hazelhurst Street, Kewdale WA 6105.

**"Company Group"** means Company, Company's Affiliates and their Affiliates, and their respective directors, officers, and employees (and excludes Company's contractors and their subcontractors, and their respective directors, officers, and employees).

**"Completion Date"** means the date by which the Products must be supplied and, where applicable, is set out in a Purchase Order.

**"Contract"** means this Contract, the Supplier Agreement Cover Page and each individual Purchase Order.

**"Contract Information"** means all information (including business, technical, and other information), data, knowledge, ideas, and work that is provided or made available to Supplier by Company in any tangible or intangible form, whether directly or indirectly, for the purpose of this Contract or that is learned, developed, discovered, or created by Supplier Group in connection with this Contract. Contract Information does not include Supplier Background Technology, information available generally to the public, or information independently made available to Supplier by a Third Party with a legal right to disclose that information without restriction.

**"GST"** means goods or services tax or similar tax levied or imposed in Australia pursuant to the GST Act.

**"GST Act"** means A New Tax System (Goods and Services Tax) Act 1999 (Cth) enacted under Australian Law.

**"Lien"** means any lien, charge, encumbrance, retention of title, or similar right available to creditors at law to secure debts owed to them.

**"Party"** means either Company or Supplier and **"Parties"** mean both of them.

**"Person"** means an individual, corporation, company, association, partnership, state, statutory corporation, government entity, or any other legal entity.

**"Personal Data"** means any information that can be used directly or indirectly, alone or in combination with other information, to identify an individual, company or any entity.

**"Pollution"** means pollution, contamination, or environmental harm of any kind, including those involving chemical substances or waste and caused by spills, releases, leaks, emissions to air, discharges to water, disposal, or seepage.

**"Products"** mean any and all products and materials that are supplied by the Supplier to the Company under this Contract as described generally in this Contract and/or a Purchase Order.

**"Property"** means property owned, leased, or furnished by a Person or in which a Person has a legal, beneficial, or economic interest.

**"Purchase Order"** means an order for Products issued in the form described in Section 2.3.

**"Purchase Price"** means the compensation set out in a Purchase Order for the Products. Unless otherwise indicated in this Contract, it includes all shipping, handling, fees, charges (such as those associated with imports and exports).

**"Required Standard of Performance"** means

- a. in a good and workmanlike manner and in accordance with generally accepted international industry or professional practice for the industry or profession in which the Product is to be provided;
- b. in compliance with the requirements of this Contract (including the applicable Purchase Order) and Applicable Law;
- c. in compliance with the Company's codes and standards that the Company notifies to Supplier;
- d. all Products are in compliance with manufacturer's requirements, are of merchantable quality, are fit for the purpose for which they are intended, are new (unless provided to the contrary in this Contract or the Purchase Order), and are free from defects in design, workmanship, and performance;
- e. conform to specifications, drawings and other descriptions supplied by the Company;
- f. correspond with samples provided by the Supplier;

- g. the Products do not infringe or violate any intellectual property right of any Person; and
- h. conform to the description contained in the Company's Purchase Order and not to the Supplier's interpretation or version of any Product code provided and/or description.

**"Subcontractor"** means any Person who is engaged by a Supplier or any subcontractor or sub-supplier of any tier to provide Products (other than an employee of the Supplier).

**"Supplier"** means the party referenced as such on the Supplier Agreement Cover Page and/or the party to whom the Purchase Order is issued.

**"Supplier Agreement Cover Page"** means page either annexed to this Contract or if not annexed the page provided to the Supplier titled "Supplier Agreement" or similar with specific terms and including the Signature panel for the Supplier.

**"Supplier Background Technology"** means technical information and know-how owned or controlled by the Supplier, or that is generated or created independently of this Contract during or after the effectiveness of this Contract.

**"Supplier Equipment"** means Supplier Group equipment, materials, tools, supplies, vehicles, vessels, and intellectual property, but does not include any Products.

**"Supplier Group"** means the Supplier, Supplier's Affiliates, Subcontractors, and their respective directors, officers, employees, and any Person acting on behalf of any of them in connection with any subject matter of this Contract.

**"Third Party"** means a Person that is not a member of Company Group or Supplier Group.

**"Transaction Taxes"** mean any value added tax, goods and services tax, sales tax, or other excise taxes, but excludes GST.

**"Warranty Period"** means 12 months after the Product is first put into operational use.

## 1.2. Interpretation and Application.

- a. Reference to the words "includes" and "including" are illustrative, not limiting, and the word "or" is not exclusive. If the currency is not Australian ("**AU**") Dollars, references to AU Dollar currency mean the respective currency equivalent.
- b. If a conflict exists between the body of this Contract and other contract or agreement entered into with the Supplier, the terms of this Contract prevails to the extent of the conflict. If a conflict exists between a Purchase Order and any other part of this Contract, the Contract prevails to the extent of the conflict.
- c. The Contract applies to: (a) any and all transactions between the Company and the Supplier relating to the provision of Products; and (b) the supply of Products by the Supplier to the Company; regardless of whether the Supplier or a representative of the Supplier has signed the Supplier Agreement Cover Page. Where a Supplier is in receipt of a Purchase Order and undertakes any acts as a result of that Purchase Order this Contract applies to that transaction regardless of whether the Supplier has read, acknowledged, signed or explicitly agreed to the terms of this Contract. The Supplier is deemed to have accepted the terms of this Contract by their conduct in acting on the Purchase Order.

## 2. SUPPLY OF PRODUCTS

- 2.1. **Supply of Products.** The Supplier shall provide the Products in accordance with the Required Standard of Performance. In the event that the Supplier is uncertain of the details of the Required Standard of Performance (including, but not limited to, the identity, description or type of Goods ordered) then they should contact the Company to clarify prior to shipping the Goods.
- 2.2. **Non-Exclusive Relationship.** Nothing contained in this Contract obligates the Company to procure Products from the Supplier, or prevents the Company from procuring products from any other contractors.
- 2.3. **Purchase Orders.** The Company (or its Affiliate) and the Supplier may enter into Purchase Orders from time to time. Each Purchase Order shall be in the form used by the Company from time to time, but shall be clearly marked as an Integrated Industrial Purchase Order and include a unique purchase order reference or number. A Purchase Order may be initiated by any means including electronically via email or facsimile. A Purchase Order may not conflict with any other part of the Contract pursuant to Section 1.2(C) and may not amend any term of this Contract pursuant to Section 15.2(A). A Purchase Order initiated electronically may not supplement the compensation terms or expand the scope of work under this Contract. If a Purchase Order does not meet the requirements of this Section, then this Contract still applies. The Supplier shall comply with any specific terms stated in the Purchase Order as if they were terms of this Contract including delivery and performance terms as set out in the applicable Purchase Order.
- 2.4. **Separate Contract.** Each Purchase Order incorporates the terms and conditions of this Contract, but is a separate contract between the Company and the Supplier, and the rights, obligations, and liability under any Purchase Order extend only to those Persons.
- 2.5. **Products.**
  - a. This section applies to Products installed or delivered to the Company as requested specifically under a Purchase Order. Title to each Product vests in the Company upon delivery of the Product to the Company or other site of installation or delivery as requested by the Company. Title to each Product must be free of any Liens or other Claims. The signing of any delivery receipts does not constitute acceptance of the Products and/or supplied quantities.
  - b. All Products must be delivered in accordance with any shipping or delivery instructions, including required timing for delivery (time being of the essence), as set out in a Purchase Order. The Products will be delivered Free into Store (FIS), CFR, DAP, DAT, DDP, Ex Works, FCA, or 'FOB at the point of delivery', per Incoterms 2010, as specified in a Purchase Order and if not specified then FIS applies. For DAP, DAT, DDP, and Ex Works deliveries, title and risk of loss will pass to Company at the point of delivery. Ex Works deliveries are permitted only if the shipping point and point of delivery are in the same jurisdiction where Products will be used by Company. For CFR, FCA, and FOB deliveries, (i) delivery will only occur after completion of all manufacture, modification, and testing by the Supplier Group, (ii) title will pass to the Company immediately after the Products have departed the territorial land, seas, or overlying airspace of the country of export.
  - c. The Company may at their sole discretion return Products to the Supplier at the address set out in the applicable Purchase Order or any other address as agreed between the Parties for the full Purchase Price (with no restocking fee), if the Products are (a) returned within 120 days from the date of their delivery, (b) non-customised, and (c) returned in the same condition as delivered.
  - d. Until 60 days following acceptance by the Company of the Products, the Company may reject any Product that fails to conform to the Required Standard of Performance. At the Company's sole discretion, the Supplier shall either: (a) repair the nonconforming

Product at the Supplier's sole cost and expense, to the Company's satisfaction; or (b) refund the Purchase Price for the nonconforming Product (with no restocking fee); or (c) provide a credit to the Company for the value of the Purchase Price.

- e. The Supplier shall and hereby does assign to the Company all manufacturer and vendor warranties for the Products and their components, and shall ensure that it does all acts necessary in order for the Company and the Company's customers to be afforded the benefits of any such warranties.
  - f. In the event that the Supplier fails to supply the Products in accordance with this Contract including but not limited to within stated timeframes for delivery, then the Company in its sole discretion may at any time prior to delivery of the Products cancel the order or delivery of the Products and shall be released by the Company from any and all Claims in respect to such Products.
  - g. All Products shall include barcoding to relevant Applicable Law and Australian Standards unless otherwise agreed in writing by the Company.
- 2.6. **Compliance with Law.** The Supplier shall ensure that all members of Supplier Group comply with Applicable Law, authorisations, concessions and clearances, and that all members of Supplier Group obtain, maintain, and comply with all required licences, permits, consents, approvals, registrations, and other authorisations.
- 2.7. **Members of Supplier Group.** The Supplier is not relieved from any liability or obligation under this Contract as a result of the Supplier's use of others on the Supplier's behalf. The Supplier shall ensure that all members of the Supplier Group comply with the requirements for the Supplier Group which are set out in this Contract.
- 2.8. **Notice of Safety Alerts and Changes;** Information and Safety Standard.

**The Supplier shall promptly notify the Company of any:**

- a. technical alerts,
- b. safety or incident alerts,
- c. advisory notices,
- d. recalls,
- e. safety design changes, or
- f. changes that may be required by industry regulation, code, or standard, in each case related to Products, or Supplier Equipment provided or to be provided under this Contract. The Supplier shall at all times maintain adequate procedures to address any of the acts or situations as set out in this section and those shall be compliant with all Applicable Laws, and the Supplier shall provide the Company with a copy of such procedures within a reasonable time of the Company requesting a copy.

**The Supplier shall:**

- a. inform the Company if any Products supplied by the Supplier are required to comply any standards, set by Australian, State or Territory legislation such as Australian Information Standards, Pollution standards or Australian Safety Standards; and
- b. ensure that all Products it supplies comply with those standards; and
- c. provide certificate of compliance prior to the first supply of the Products requiring compliance with the standards and then provide updated certificates upon request.

### 3. TERMINATION AND SUSPENSION

- 3.1. **Termination by Company.** The Company may terminate this Contract, any Purchase Order, or any part of the supply of Products for breach of this Contract at any time by giving notice to the Supplier or with 30 days' notice in the event of termination without breach of this Contract. The Supplier shall discontinue performance as specified in the notice and take all reasonable measures to mitigate the costs of termination.
- 3.2. **Service Suspension.** The Company may suspend, with immediate effect, all or part of the provision of Products by giving notice to the Supplier if the Company determines that any member of the Supplier Group is not complying with this Contract. The Supplier is not entitled to compensation or reimbursement related to such suspension.

### 4. SUPPLIER WARRANTY

- 4.1. **Warranty.** The Supplier warrants to the Company that the Supplier Group will supply the Products in accordance with the Required Standard of Performance. If the Supplier Group fails to provide any of the Products as warranted, the Company shall notify the Supplier no later than 30 days after expiration of the relevant Warranty Period.

At the Company's option, the Supplier shall

- a. re-supply or repair the non-conforming Product at the Supplier's sole cost and expense, to the Company's satisfaction, using the fastest means available in order to minimise the Company's loss of use of the Product or
- b. refund or credit the Company (as applicable) that portion of the compensation that is attributable to the non-conforming Products. The Supplier shall pay all reasonable costs incurred in retrieving, and removing any non-conforming Product, and reinstalling a conforming Product. The Warranty Period will be extended by 12 months for all repaired or replaced Products. If the Supplier fails to perform the remedial action in accordance with subsection (A), or if the Company determines it cannot wait for the Supplier to perform the remedial action, the Company may perform or have others perform corrective work, and the Supplier shall be responsible for all reasonable costs incurred by the Company.

### 5. ADDITIONAL OBLIGATIONS

- 5.1. **Conflict of Interest.** No member of the Supplier Group will enter into any business arrangement with any director, employee, or agent of Company or its Affiliate (other than as a representative of Company or its Affiliate) without the Company's prior written consent.
- 5.2. **Reporting Violations and Termination.** The Supplier shall immediately notify Company of any violation of Section 5.1 or breach of the warranty under Section 4.1. Notwithstanding any other provision of this Contract, the Company may terminate this Contract or any Purchase Order at any time pursuant to Section 3.1 for any violation of Section 5.1 or breach of the warranty under Section 4.1, and the Company is not obligated to make any payment to Supplier after the date of such violation or event, except in satisfaction of payment obligations that accrued on or prior to the date of such violation or event, and that the Company has determined are not directly or indirectly related to such violation or event.

- 5.3. **Data Protection.** The Supplier shall process any Personal Data on behalf of Company in accordance with Applicable Law and the Company's reasonable instructions, including restricting access to Personal Data, applying appropriate security measures to protect Personal Data, and not disclosing Personal Data to third parties without Company's prior authorisation. In the event of any improper (including unintended) processing, access, disclosure, exposure, or alteration of Personal Data, or any loss or destruction of Personal Data, the Supplier shall immediately notify the Company and cooperate with the Company's reasonable requests to investigate and remediate such incident.

## 6. FINANCIAL MATTERS

- 6.1. **Compensation.** Subject to the provisions of this Contract, the Company shall pay the Supplier in accordance with the terms set out in the Supplier Agreement Cover Page and/or the applicable Purchase Order as full compensation for Products properly supplied by the Supplier. All compensation is subject to any separate pricing and discount agreements between the Parties or their Affiliates. All rates agreed between the Parties are effective and fixed throughout the effectiveness of this Contract and through the completion of the applicable Purchase Order. The Supplier shall advise the Company with at least 30 days notice in writing of any impending price changes and such changes will not apply unless such notice is provided. The Supplier shall provide the Company upon request with a complete price list for all its products in Microsoft Excel format.
- 6.2. **Supplier's Invoices.** The Supplier shall submit an invoice for Products supplied as set out in this Contract, in accordance with the terms set out in the Supplier Agreement Cover Page and/or the applicable Purchase Order (whichever applicable).  
The Supplier's invoice must include:
- a. the Purchase Order reference number;
  - b. the amount due for any Products (including description, quantity, and unit cost);
  - c. Transaction Taxes payable or collected by the Supplier under Applicable Law or pursuant to this Contract;
  - d. any information required to comply with GST in accordance with Section 8;
  - e. the Supplier's Australian business number (A.B.N.), and
  - f. detailed supporting documentation to support the Supplier's charges, and any other information reasonably requested by the Company. Additionally, the Supplier, by submitting an invoice, represents that its invoice and all documents submitted in support of its invoice (including third party documentation) are true and correct. No charges shall be made for wrapping, cartons, crating, boxing, packing and carriage, unless any such charges are agreed to in writing by the Company.
- 6.3. **Payments.** The Company shall pay undisputed invoices that comply with Section 6.2 in accordance with the terms stated in the Supplier Agreement Cover Page and/or the applicable Purchase Order. Company shall pay funds to Supplier by electronic fund transfer. If Company disputes any part of an invoice, Company may reject the invoice and Supplier shall correct all deficiencies before re-submitting that invoice, or may resubmit the undisputed portion of that invoice. Any payment by Company is made on the condition that Company reserves the right to challenge the validity of any amount paid, and Supplier shall pay Company any money to which Supplier was not entitled. If Supplier fails to comply with any obligation of this Contract and does not cure such failure within 5 days after receiving notice from Company, then Company may withhold payment of outstanding invoices until Supplier is in full compliance. Company may withhold payment of an invoice for an unsigned Purchase Order that conflicts with any part of this Contract, supplements the compliant Purchase Order is executed. Company may offset any financial obligation which Supplier owes, or its wholly-owned Affiliates owe, to Company against amounts due under this Contract, provided that the amount in question is not in dispute.
- 6.4. **Subcontractor Payments and Liens.** The Supplier shall pay (or procure the payment of) any Claim owed by Supplier Group for personnel, materials, equipment, and taxes as they become due. The Supplier shall not claim any Lien on any part of the Products or Company Property at any stage of completion. The Supplier shall immediately notify Company of any possible Lien which may affect the performance of this Contract. If there is evidence of any potential Lien against the Company or its Property, the Company may withhold, offset, or otherwise recover from the Supplier an amount that will fully indemnify the Company against the Lien.

## 7. CONTROLS, RECORDS, AND INSPECTION

- 7.1. **Controls, Records, and Inspection.** The Supplier shall ensure that all Supplier Group members establish and maintain all internal controls and records that are necessary and appropriate in accordance with good management practice
- a. to ensure the accuracy and completeness of the Supplier's invoices and of the records required to be kept under this Contract and compliance with all obligations of the Supplier under this Contract and
  - b. to record accurately and completely the Supplier's performance, the calculation of all amounts payable by the Company, and the amounts payable by Supplier Group members to other Supplier Group members or others under this Contract. Up until 24 months from the end of the calendar year in which the Products are supplied (except for the longer period required by Section 8.2),
    - i. The Supplier shall ensure that all members of Supplier Group retain these records and
    - ii. The Company may inspect at any time all records to confirm that the requirements of the Contract are met and whether Supplier Group members have satisfied their payment obligations under this Contract.

## 8. TAXES AND IMPORT AND EXPORT CHARGES

- 8.1. **Supplier's Taxes and Tax Obligations.** The Supplier is responsible (and shall not seek reimbursement from the Company) for all Claims for taxes assessed or levied against the Supplier relating to this Contract, including income, withholding, franchise, personnel/employment, and Property. The Supplier is solely responsible for all Claims for taxes (including withholding and Transaction Taxes) of any Subcontractor in relation to this Contract.
- 8.2. **Tax Records.** The Supplier shall
- a. if requested by Company, provide (1) written proof that it has made all registrations, reports, and tax payments, and (2) documentation required by the Company to prove payment of taxes to Supplier, obtain tax reimbursement, credit, abatement, or refund of any Transaction Taxes assessed against the Company and collected by the Supplier;
  - b. cooperate to reduce the amount of applicable taxes including separately stating or re-phrasing invoice items;
  - c. not take any action that is prejudicial to obtaining any available tax exemption;
  - d. timely disclose and provide satisfactory evidence for any claimed tax exemption; and
  - e. maintain (and allow the Company to inspect) records of Supplier Group sufficient to substantiate any obligations of the Company and which are the responsibility of the Supplier under Section 8, for so long as the longest applicable statute of limitations remains

open with respect to taxes or import/export charges. These records must be provided at the Company's request and in the format requested by the Company.

### 8.3. Australian Goods and Services Tax.

- a. **Definitions.** All terms used in this Section 8.3 that are defined in the GST Act have the same meaning in this Section.
- b. **GST Charges.** All amounts in this Contract are exclusive of GST unless otherwise stated in Exhibit B – Compensation.
- c. **Additional GST Charges.** If a supply under this Contract is subject to GST, the Party which made the taxable supply is subject to both of the following: (1) The Party may charge the recipient Party an amount of GST in addition to the GST exclusive value payable for the taxable supply. (2) The Party is required to provide a tax invoice to the recipient Party before the GST amount will be paid.
- d. **Adjustment Event.** If an adjustment event occurs which gives rise to a GST adjustment, both of the following apply:
  - i. The Party aware of the adjustment event must notify the other Party immediately.
  - ii. The Party which made the taxable supply shall issue an adjustment note to the recipient Party to enable the additional GST payment or GST refund.
- e. **GST Retention Amounts.** If Company is entitled to withhold a retention amount from any payment to Supplier, the following shall apply:
  - i. The retention amount must be shown as reducing the amount payable and the amount of GST payable on the tax invoice.
  - ii. When the retention amount is to be released, Supplier shall issue a separate tax invoice to request the retention payment.
- f. **Foreign Currency GST.** If GST is expressed in a currency other than Australian dollars, the Party which made the taxable supply must display on the tax invoice the amount of GST payable in Australian dollars or the conversion rate used by the Party to calculate the GST amount.
- g. **Amounts Net of GST Input Tax Credits.** If any amount under this Contract is determined by reference to any liability or cost incurred by any Party, that amount will be the actual amount incurred by such Party less the amount of any GST input tax credit to which such Party, an agent, a related party, representative group member, or joint venture operator is entitled in respect of that liability or cost.

- 8.4. **Import and Export Charges.** The Supplier is responsible for importing and exporting all Products installed or delivered to the Company and the Supplier shall provide Company with export control classification information, if applicable, at the time of delivery. The Supplier shall provide documentation evidencing the country of origin for Products. Supplier shall not supply any Product that is subject to United Nations, Australian, U.S., or European Union ("E.U.") trade sanctions. The Supplier is responsible for all import and export charges and any other lawfully payable charge related to the import and export of Products and for Products sold by the Supplier to the Company as requested specifically under a Purchase Order.

## 9. CLAIMS, LIABILITIES, INDEMNITIES, AND LIMITATIONS

- 9.1. **PROPERTY AND PERSONNEL.** The Supplier releases and indemnifies the Company Group from and against Claims arising out of this Contract related to personal injury to or death of any Supplier Group personnel, Company Group personnel, or Third Party, and damage to or loss of Property of the Supplier Group, Company Group, or Third Party. However, with respect to Supplier Group personnel and Property, the Supplier is not liable where the injury, death, damage, or loss results from the Company Group's sole negligence or wilful misconduct. With respect to Company Group or Third Party personnel and Property, the Supplier is liable only to the extent of Supplier Group's negligence, fault, or liability.
- 9.2. **OTHER INDEMNITIES.** The Supplier releases and indemnifies Company Group from and against Claims arising out of this Contract for:
- a. breach of this Contract by the Supplier Group;
  - b. infringement of intellectual property rights relating to the Products;
  - c. violation of Applicable Law;
  - d. The Supplier Group's taxes or tax or import and export obligations; and
  - e. any and all Pollution caused or contributed to by the Products.
- 9.3. **LIMITATION ON CLASSES OF DAMAGES.** The Company and the Supplier mutually waive and release, to the fullest extent permitted by Applicable Law, Claims for indirect, special, or consequential damage, lost profits (whether direct, indirect, or consequential), and punitive or exemplary damages. The limitations in this Section only apply to damages or losses suffered by a member of Company Group or Supplier Group. The limitations in this Section do not apply to breaches of Supplier's confidentiality obligations and Third Party Claims. The Company and Supplier mutually exclude any application of Part 1F of the Civil Liability Act 2002 (WA) from all Claims arising out of this Contract.
- 9.4. **DEFENCE OF CLAIMS.** When the Supplier indemnifies the Company Group against Claims, the Supplier shall defend and hold the Company Group harmless against those Claims and against all reasonable costs, expenses, and fees (including attorney's fees) incurred by Company Group in defending those Claims, and any tax imposed on Company Group as a consequence of receiving payment under Section 9.

## 10. DANGEROUS GOODS

- 10.1. **Supplier Obligations.** If the Supplier is supplying to the Company any Products that constitute "Dangerous Goods" as defined by any Applicable Law, the Supplier must:
- a. specify and list the "Dangerous Goods" it supplies to the Company;
  - b. warrant to the Company that the Supplier has complied with all obligations in all Applicable Laws relating to storage, transport, packaging and labelling of such "Dangerous Goods";
  - c. provide instructions to the Company on what steps the Company should take to store, transport, label or package such "Dangerous Goods" in accordance with all Applicable Laws; and
  - d. provide to the Company all other details pertaining to the "Dangerous Goods" including, without limitation: how each of those "Dangerous Goods" has been identified under the current Applicable Laws, the class applicable under Australian legislation relevant to the "Dangerous Goods", and the "Hazchem" data sheet for the "Dangerous Goods" (Safety Data Sheet).

## 11. INSURANCE

11.1. **Insurance Required of Supplier.** The Supplier shall maintain, in all areas where Products are to be supplied (and, where stated below, also in the areas in which the Products that are supplied come from), the following insurance and all other insurances required by Applicable Law during the time that this Contract is on foot. Nothing contained under Section 11, nor the actual amounts of insurance maintained by Supplier or its Subcontractors, limits or reduces Supplier's liability and indemnity obligations under this Contract.

- a. Workers' Compensation (or equivalent government compensation scheme) and/or Employer's Liability Insurance covering all Claims arising out of bodily injury, death, or occupational disease to the Supplier's employees. Such insurance must comply with Applicable Law where the Products are supplied and come from and, if applicable, the states, provinces, or countries of residence of the Supplier personnel supplying the Products.
- b. Third Party Liability (bodily injury and property damage) Insurance including coverage for contractual liability to cover the Supplier's indemnity obligations to Company Group for third party bodily injury and property damage under this Contract and products/completed operations. The policy must contain a cross liability or severability of interest provision. The policy limit must not be less than AU\$10,000,000 per occurrence and can be met through the cumulative, per occurrence limits of the Supplier's primary, excess, or umbrella insurance.
- c. Pollution Liability Insurance with a policy limit of not less than AU\$10,000,000 per occurrence. The Supplier may satisfy this requirement through either a separate Supplier's Pollution Liability Insurance policy or as part of their Third Party Liability Insurance.
- d. Insurances where available and necessary to cover the Suppliers obligations in this Contract in relation to Product Recalls, warranties, cyber security, Product Liability, Australian Information and Safety Standard Requirements, Dangerous Goods, data protection and professional indemnity.

11.2. **Insurance Conditions.** To the extent of Supplier's release and indemnity obligations to the Company Group under this Contract:

- a. The insurance required in Section 11.1 which is subject to Western Australian jurisdiction, must provide Company Group with a Blanket Principal's Indemnity Extension for both statutory benefits and common law liability. For other applicable jurisdictions, the insurance required by Section 11.1 must waive subrogation against Company Group;
- b. The insurance required in Sections 11.1 must include Company Group as an additional insured or an insured principal, and must be primary to any insurance maintained by Company Group; and
- c. Any insurance maintained by Supplier covering Supplier Property must waive subrogation against Company Group.

11.3. **Evidence of Insurance.** Upon the Company's request, the Supplier shall provide Company with certificates of insurance or other documentary evidence, satisfactory to the Company, of the insurance coverages and conditions required under Section 11. The Company's acceptance of this evidence does not constitute a waiver, release, or modification of the required insurance

## 12. CONTRACT INFORMATION

12.1. **Confidentiality of Contract Information.** The Supplier shall keep all Contract Information confidential and shall ensure that Supplier Group members do not disclose any Contract Information to any other Person without the prior written consent of the Company.

12.2. **Use of Contract Information.** The Supplier shall use and shall ensure that all other Persons who receive Contract Information (directly or indirectly) through Supplier use, Contract Information on a need to know basis only for the purpose of performing the particular Purchase Order.

12.3. **Ownership of Property Rights.** All intellectual property rights and all other rights in relation to Contract Information are owned exclusively by the Company. The Company and its Affiliates shall have an irrevocable, royalty-free, perpetual, worldwide right, and licence, with the right to sublicense, to use Supplier Background Technology to the extent necessary to exploit the Contract Information or the Products supplied under this Contract.

12.4. **Injunctive Relief.** If any breach of Section 12 occurs or is anticipated to occur, the Company is entitled to immediate relief, whether at law or equity and the Company may seek indemnification from the Supplier for any loss or harm in connection with the breach or enforcement of the Supplier's obligations. Supplier shall notify the Company immediately of any breach.

12.5. **Return of Materials.** The Supplier must return to the Company, or destroy all copies, extracts, drawings, and other materials or records that contain or reflect any Contract Information, within 5 business days from the first to occur:

- a. termination of this Contract or
- b. a written request from the Company to the Supplier to do so. If Contract Information has been copied onto computer systems or other data storage systems, all such data recordings must be destroyed in a manner which makes it unrecoverable.

## 13. GOVERNING LAW AND RESOLUTION OF DISPUTES

13.1. **Governing Law.** This Contract is governed by and interpreted in accordance with the laws of Western Australia, without regard to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods, 1980 (known as "the Vienna Sales Convention") does not apply to this Contract.

13.2. **Resolution of Disputes.** The Parties shall exclusively and finally resolve any dispute between them using direct negotiations, mediation, and then arbitration as set out in Section 13, except as permitted in Section 12.4. If a dispute arising out of this Contract is not resolved by direct negotiations between the Parties, either Party may initiate mediation by giving notice to the other Party setting out the disputed issues and the value of the Claim. If the Parties fail to resolve the dispute within 60 days from notice of mediation, then the dispute must be finally resolved by binding arbitration, and either Party may initiate arbitration by giving notice to the other Party. The place of arbitration will be Perth, Western Australia. One arbitrator will conduct the arbitral proceedings, in English, in accordance with the United Nations Commission on International Trade Law ("**UNCITRAL**") Arbitration Rules. The Australian Centre for International Commercial Arbitration is the appointing authority. The maximum number of witnesses each Party may call to give evidence is 3 witnesses of fact and one expert witness. The arbitration award is final and binding. Regardless of which Party prevails, all arbitration fees and costs will be paid equally, and each Party will bear its own attorneys' fees and costs in connection with such arbitration. The Parties waive irrevocably their right to any form of appeal, review, or recourse to any court or other judicial authority, to the extent that such waiver may be validly made.

Proceedings to

- i. preserve Property pending determination by the arbitrator(s) or
- ii. enforce judgment entered on an award may be brought in any court having jurisdiction over the Person or assets of the non-prevailing Party.

#### 14. BUSINESS RELATIONSHIP

- 14.1. **Independent Supplier.** The Supplier is an independent contractor, and the members of Supplier Group are not employees, agents, or representatives of the Company or Company Group.

#### 15. GENERAL PROVISIONS

- 15.1. **Prior Agreements.** This Contract supersedes all prior and contemporaneous representations, agreements, understandings, and commitments between the Parties concerning the subject matter of this Contract. Each Purchase Order comprises the complete and exclusive agreement between the Parties regarding the subject matter of that Purchase Order and, except for the terms of this Contract, supersedes all prior and contemporaneous representations, agreements, understandings, and commitments between the Parties concerning the subject matter of that Purchase Order.
- 15.2. **Amendment.** No amendment to this Contract or any Purchase Order is effective unless made in writing and signed by authorised representatives of both Parties. No Supplier invoice, price list, rate schedule, bill of lading, work ticket, receipt, confirmation, or any other document prepared by the Supplier or submitted to the Company, even if signed by the Company (other than an amendment signed by the Parties' authorised representatives), will modify or supplement in any way this Contract (including any Purchase Order), regardless of any provision to the contrary in such document.
- 15.3. **Notices.** Notices are effective when received by the recipient during its regular business hours. All notices under this Contract must be in writing and will be deemed properly given when addressed to the appropriate Party at the address set out in the signature page of this Contract or if applicable, in a Purchase Order. Notices may be delivered by mail, facsimile, email, or by a recognised international courier service. Notices delivered by facsimile or email will only be effective if the facsimile or email clearly and prominently states that it is an effective notice given under this Contract. Further, notices required under Sections 5.2 and 13 are ineffective if sent by email. Notices which do not comply with the requirements of this Contract are ineffective and do not impart actual or any other kind of notice.
- 15.4. **Assignment.** The Supplier may not assign its rights or obligations under this Contract without the prior written consent of the Company. The Company may assign all or part of its rights or obligations under this Contract and, as applicable, "Company" named in a Purchase Order may assign all or part of its rights or obligations under the relevant Purchase Order
- a. without the Supplier's consent to Company's Affiliate, or any Person that assumes the associated assets of the Company under a reorganisation, merger, consolidation, or asset sale, or
  - b. to any other Person with the Supplier's consent not to be unreasonably withheld.
- 15.5. **Third Party Rights.** No Person who is not a Party to this Contract has any rights under this Contract or may enforce any provision in this Contract, except where a member of Company Group, Supplier Group, or a is entitled to insurance, defence, release, limitation of liability, or indemnity protection under this Contract.
- 15.6. **Severability and Savings.** If any provision (or part of a provision, as applicable) of this Contract is determined to be invalid or unenforceable by a court or arbitrator of competent jurisdiction, the invalidity or unenforceability will not affect the other provisions of this Contract, and all provisions not affected by such invalidity or unenforceability will remain in full force and effect. The offending provision (or part of the provision, as applicable) will be modified to be valid and enforceable while achieving to the greatest possible extent, the economic, legal, and commercial objectives of the invalid or unenforceable provision; provided, however, if such modification is not possible, then the provision will be severed and treated as if it were never a part of this Contract.
- 15.7. **Survival.** All indemnities in this Contract will survive completion or termination of this Contract.
- 15.8. **Public Announcements.** The Supplier shall not issue any public announcement or statement concerning this Contract or make any use of Company Group's names, image, logos, or trademarks without obtaining the Company's prior written consent.