GENUS

Supplier Terms and Conditions

Agreement

STN-COM-GNP-0003

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MODULE A THIS AGREEMENT

A.1 Agreement Structure

A.1.1 This Framework Agreement

(a) This Framework Agreement is intended to apply to the type(s) of Supply You make to Us. The terms and conditions are separated into colour-coded Modules. Some Modules may or may not apply to You depending on the type(s) of Supply You make to Us. If you are providing more than one type of Supply, then every Module which is relevant to each respective type of Supply that You are providing will apply.

(b) We may request a Supply from you under this Framework Agreement by issuing a Purchase Order to You.

(c) We may request supplies of a similar nature from other suppliers. We are not required to use You exclusively or to request any or any minimum level or value of Supply from You.

(d) The type(s) of Supply may be specified in any Purchase Order, in which case the Modules applicable to the type(s) of Supply specified in the Purchase Order will apply to any Supply You provide under that Purchase Order.

(e) The following table provides a guide to which Modules may apply to any Supply provided by You under a Supply Agreement, depending on the type(s) of the Supply, if not specified on a particular Purchase Order.

<table>
<tr><th></th><th colspan="5">The type(s) of Supply you make to Genus</th></tr>
<tr><td></td><td>Goods</td><td>Services</td><td>Hire</td><td>Consultancy</td><td>Design</td></tr>
<tr><td></td><td colspan="5">Agreement Modules which will apply to Your Supply</td></tr>
<tr><td rowspan="3">Other relevant circumstances</td><td>General</td><td>General</td><td>General</td><td>General</td><td>General</td></tr>
<tr><td rowspan="2">Goods</td><td rowspan="2">Services</td><td rowspan="2">Hire</td><td>Services</td><td>Services</td></tr>
<tr><td>Consultancy</td><td>Consultancy
Design</td></tr>
<tr><td>If present on site:</td><td>Site Conditions</td><td>Site Conditions</td><td>Site Conditions</td><td>Site Conditions</td><td>Site Conditions</td></tr>
<tr><td>If Supply is subcontracted:</td><td>Subcontracting</td><td>Subcontracting</td><td>Subcontracting</td><td>Subcontracting</td><td>Subcontracting</td></tr>
<tr><td>Other special circumstances:</td><td>Special Conditions</td><td>Special Conditions</td><td>Special Conditions</td><td>Special Conditions</td><td>Special Conditions</td></tr>
</table>

A.1.2 Preconditions to any Supply Agreement

Prior to starting work under any Supply Agreement, You must, at Your own cost, submit a Pre-Qualification application on Our Pre-Qualification Platform and attain, and maintain, a status of “approved” on Our Pre-Qualification Platform.

A.1.3 Documents Comprising Each Supply Agreement

(a) Each Supply Agreement shall be a separate contract between You and Us.

(b) Each Supply Agreement shall be comprised of the following documents which, to the extent of any ambiguity, conflict or inconsistency between any parts of the Supply Agreement, shall have the following order of priority:

- (i) any applicable Special Conditions;
- (ii) the relevant Purchase Order;
- (iii) these Terms (including any relevant Modules); and
- (iv) any other documents annexed or explicitly incorporated into the Supply Agreement by reference.

A.1.4 Documents Excluded

No terms and conditions provided by You (including any terms and conditions contained in any account opening form, credit application, other document or software) will form part of or have any legal effect on this Framework Agreement, any Supply Agreement, or their interpretation.

A.2 Discrepancies

The Contract Documents are intended to be mutually explanatory of one another, however if You become aware, or should reasonably have become aware, of any Discrepancy, then:

(a) You must promptly, but in any event, within 3 Business Days, give Us a written notice stating the nature of the Discrepancy;

(b) within a reasonable time, We will give You a direction to resolve the Discrepancy;

(c) You must comply with any directions given by Us under clause A.2(b); and

(d) Unless We determine otherwise, at our sole discretion, no Discrepancy or direction under clause A.2(b) shall entitle You to claim any additional costs.

A.3 Prior Agreements

Unless any applicable Special Conditions provide otherwise, any Supply provided or to be provided by You pursuant to another written, fully executed contract between You and Us will continue to be provided under that contract with these Terms having no effect on that Supply.

A.4 Revisions to this Framework Agreement

A.4.1 Updates

(a) We may update these Terms from time to time by updating the Terms on Our website, or on Our Prequalification Platform or by notifying You ("Update").

(b) Subject to clause A.4.2, the most current version of the Terms subject to any update under clause A.4.1(a) ("Current Terms") shall apply to any Purchase Order issued before or after the date of the Update.

A.4.2 Objections to Updates

(a) Within five (5) Business Days of an Update under clause A.4.1(a), you may notify us that you consider an Update is Unfair.

(b) If you object to an Update, the latest version of these Terms which were in force immediately before the Update ("Existing Terms") shall continue in force in relation to any Supply under any Purchase Order issued before the Update.

(c) Within 5 Business Days of receipt of a notice under subclause A.4.2(a)(a), We will provide you with an opportunity to negotiate in relation to the Update.

(d) If We reach an agreement with You then these Terms will be updated in accordance with that Agreement.

(e) If We cannot reach an agreement with You, then:

  (i) either Party may terminate this Framework Agreement by notice to the other Party;

  (ii) the Existing Terms shall continue to apply to any Supply under any Purchase Order issued before the Update;

  (iii) any further Purchase Orders issued to You shall be issued on the basis of the Current Terms;

  (iv) acceptance of any such Purchase Orders shall be deemed to be acceptance of the Current Terms ; and a new Framework Agreement shall come into force between You and Us on those Terms.

A.4.3 Other Changes

Subject to clause A.4.1 and clause B.4, these Terms cannot be amended or varied unless the Parties have agreed to amend or vary them in writing.

MODULE B GENERAL TERMS

B.1 Scope of this Module

This Module shall apply to any Supply Agreement for any Type(s) of Supply.

B.2 Your Obligations

B.2.1 Representations and Warranties

B.2.1.1 Warranties You Give Us

Each time You Supply to Us, You acknowledge, agree, represent and warrant to us that:

(a) the Supply will:
- (i) comply with all the requirements of the relevant Supply Agreement;
- (ii) match any description, drawings and/or specifications contained in or provided to You with or in relation to the relevant Supply Agreement;
- (iii) correspond with in nature and quality and meet or exceed any expectations created by any representations, examples, and/or demonstrations which You have made, given or shown to Us;
- (iv) be free from any errors, defects, malfunctions or faults;
- (v) meet or exceed any relevant Australian or International Standards; and
- (vi) comply with all applicable Laws.

(b) You have:
- (i) gathered all information necessary to perform Your obligations;
- (ii) made Your own assessment of all things necessary to provide the Supply; and
- (iii) will be responsible for all of the risks You are assuming under this Agreement.

B.2.1.2 Warranties Unaffected

To the maximum extent permitted by law, no act or omission by Us, including any review, approval or acceptance of any Supply (or any part of any Supply) by Us, affects the warranties which You have given Us under this Agreement.

B.2.2 General Obligations

(a) You agree to provide the Supply by the Date for Delivery in accordance with these Terms.

(b) You must ensure that We are informed of all aspects of the provision of the Supply under this Agreement that may affect the Date for Delivery, the Site, or Our scheduling requirements for Our operations or projects.

(c) You must promptly comply with Our lawful, reasonable directions and ensure that Your Personnel do the same.

(d) You must provide such reports and data in relation to the Supply as We request in a format, to a standard and at times acceptable to Us.

B.2.3 Your Personnel

B.2.3.1 Your Responsibilities

(a) You are responsible for:
- (i) engaging the required number of Personnel to meet Your obligations under this Agreement;
- (ii) only employing Personnel with the required skills and experience expected for the provision of the Supply in accordance with Good Industry Practice;
- (iii) managing all industrial relations in connection with Your Personnel;
- (iv) taking all reasonable steps to ensure Your Personnel do not engage in sexual harassment or other inappropriate behaviour;
- (v) minimising disruption in the provision of the Supply and other operations at the Site; and
- (vi) maintaining productive and harmonious relationships with each Party's respective Personnel

(b) You must promptly notify Us in writing if You become aware of any inappropriate behaviour or incident involving Your Personnel who are working on Site or in relation to this Agreement or the Supply.

B.2.3.2 Acts and omissions of Personnel

(a) During the Term Your Personnel will represent and act for You and You will be bound by the actions of Your Personnel.

(b) You are deemed to be aware of a matter if Your Personnel are aware of that matter.

B.2.3.3 Changes in Your Personnel at Our request

We may, at our sole discretion, require, that You, at your own cost, immediately stop any of Your Personnel from being involved in the provision of the Supply, remove them from any Site, and/or replace them with other Personnel with suitable skills, qualifications and experience.

B.2.4 Dealing with Your Interests under this Agreement

B.2.4.1 Subcontracting

You must:

(a) not Subcontract Your obligations under this Agreement, or any part of them, without Our prior written consent, which shall not be unreasonably withheld or delayed.

(b) ensure that all subcontracts entered into in accordance with clause B.2.4.1(a) contain obligations that are consistent with and no less onerous than Your obligations under these Terms.

B.2.4.2 Assignment or Novation

You must not assign or novate Your obligations under this Agreement, or any part of them, without Our prior written consent.

B.2.4.3 PPS Law

You must not create or allow to be created any security interest under the PPS Law to subsist over the Supply, or this Agreement, without Our prior written consent. At Our request, You must take all steps in relation to the PPS Law which would be prudent for a Relevant Contractor in Your position to take to protect Our interests in connection with any Supply under this Agreement.

B.2.5 Safety, Health, Environment and Quality (SHEQ) Obligations

(a) You must promptly notify Us of:

  (i) any reportable or notifiable incidents under applicable Legislation including if an accident, injury, loss or damage occurs at a Site, pursuant to Our Policies and Procedures; and

  (ii) any work health, safety and environmental incident (including incidents reportable to Government Authorities) which arises out of or in connection with performance of the Services or supply of the Goods,

  as soon as possible and in any event no later than sixty (60) minutes after its occurrence.

(b) You and Your Personnel must:

  (i) Provide the Supply in a safe manner and use best endeavours to manage risks as low as reasonably practical;

  (ii) comply with all or Our applicable directions, Policies & Procedures and approved Work Plans; and

  (iii) comply with all applicable Environmental, SHEQ, Workers Compensation and Injury Management Laws;

(c) You must have and maintain all applicable permits, licences, exemptions, and approvals required for You to comply with Your obligations under this Agreement and providing the Supply to Us.

(d) You must provide Us with a copy of any incident notification documentation provided to a Government Authority or other authorised party.

(e) If requested by Us, You must:

  (i) provide Us with copies of any documents prepared for the planning and risk assessment of the work health, safety and environmental risks related to the provision of the Supply;

  (ii) provide Us with copies of all documents relevant to any work, safety, health, environmental and quality related incidents;

  (iii) participate in any planning and risk assessment meetings or workshops with Us and Our Clients; and

  (iv) authorise Us and Our representatives, agents, or Clients to conduct interviews with any of the Your Personnel regarding all matters relevant to any incident.

(v) If We direct, You must complete and provide Us with a full investigation into a work health, safety, and environment incident within seven (7) days of its occurrence.

(vi) No direction under this clause B.2.5 will entitle You to any increase in the Purchase Price.

B.2.6 Quality of the Supply

B.2.6.1 Quality Standards

(a) You must comply with the standards of quality specified in this Agreement and, in all cases, relevant Legislation requirements and Standards. If no Standards are specified, You must comply with the best practice industry standards applicable to the Supply concerned.

(b) On Our request, You must provide Us with copies of the 'Inspection Test Plan', 'Inspection Test Report', 'Factory Inspection Test Report', 'Type Testing Report', 'Manufacture Data Report' and other documents prepared for the management and control of the quality of the Supply.

B.2.6.2 Inspection of Supply

(a) The Supply must be tested in accordance with any requirements of the Purchase Order, relevant Legislative requirements, applicable standards and any manufacturer's specifications and/or instructions.

(b) You acknowledge and agree that all the cost of all required tests have been included in the Purchase Price.

(c) The results of tests shall be promptly supplied to Us in writing in a form acceptable to Us.

(d) We will have the right to inspect, test and assess the Supply and You must give Us access to Your premises for such purposes during normal working hours.

(e) The Supply will not be accepted by Us until it has been tested and inspected pursuant to clauses B.2.6.2(a)& B.2.6.2(d).

(f) Any inspection, testing or assessment of the Supply by Us will not relieve You from any of Your obligations under this Agreement and will not affect any other remedy we may have in respect of any Defective Supply.

B.2.6.3 Defects in the Supply

If You identify any Defects in a Supply You must promptly notify Us in writing.

B.2.6.4 Rectification of Defects

If We discover or You notify us of any Defects in the Supply, We may, at Our sole discretion:

(i) reject the Defective Supply;

(ii) direct You to make good the Defects at Your own cost;

(iii) make good the Defects Ourselves and You must reimburse Us for any costs that We incur.

B.2.6.5 Remedies not Exclusive

The remedies set out in clause B.2.6.4 are in addition to not instead of any other remedies We may have.

B.3 Our Obligations

In consideration for Your provision of the Supply we shall pay you the Purchase Price, according to these Terms.

B.3.1 Payment

B.3.1.1 The Purchase Price

(a) The Purchase Price is not subject to rise and fall or any other change except as set out in this Agreement.

(b) The Purchase Price includes the cost of all goods, services, materials, labour, travel, accommodation, other costs, expenses, taxes, charges, import duties and fees of any nature that may be incurred by You in connection with the provision of the Supply whether incurred before or after the date of the Purchase Order and whether specifically mentioned in any Contract Document or not.

(c) You acknowledge and agree that the Purchase Price is inclusive of all liabilities, risks and obligations, expressed or implied, in this Agreement or incurred by You in the course of providing the Supply.

B.3.1.2 Payment and Invoicing Requirements

(a) We shall pay You in accordance with the agreed payment schedule attached or referenced in the Purchase Order. If no payment schedule has been specifically defined then You will invoice Us at the completion of each stage of progress in providing the Supply, as determined by Us.

(b) As a precondition for payment, You must provide Us with certificates of currency for all insurance policies required by these Terms;

(c) We do not warrant the content, correctness, accuracy, or completeness of the breakdown of any fixed lump sum or any bill of quantities. You are not entitled to any change to the Purchase Price because of any error, inaccuracy, or incompleteness of any bill of quantities accompanying the price or as otherwise set out in the Purchase Order.

(d) For the purpose of a schedule of rate price, each unit rate is fixed and subject to re-measurement of the total quantities performed/supplied.

(e) Goods must be delivered with all applicable quality assurance documentation, guarantees and warranties;

B.3.1.3 Terms of payment

(a) Subject to clause B.3.1.3(b), invoices must be submitted to Us for payment after You provide the Supply.

(b) Where the duration of the provision of the Supply exceeds one month, You may invoice Us at the end of each calendar month for the portion of the Supply which has been delivered during that calendar month.

(c) Subject to clause B.3.1.3(d), your compliance with this clause B.3.1, any other written agreement between the Parties and any relevant Law, We will pay each valid Tax Invoice submitted by You by the end of the calendar month following the calendar month in which the Tax Invoice was issued ("Payment Period").

(d) If the date for payment would fall on a day other than a Business Day, or for any other reason, then, subject to any relevant Law, We may, at Our sole discretion, make payment to You on the next Business Day.

(e) If the Purchase Price is to be paid in more than one instalment You must submit a Tax Invoice for each instalment, which must be a true and accurate reflection of the Supply You have provided and must include:

  (i) your name and valid ABN (if a valid ABN or exclusion is not provided a withholding tax will be deducted);

  (ii) the Purchase Order reference number for the Supply;

  (iii) a description of the relevant Goods or Services and the dates on which they were delivered or performed;

  (iv) a calculation of the amount payable exclusive of GST and the relevant GST amount payable;

  (v) proof of Delivery of any Goods and proof of performance of any Services;

  (vi) a statement confirming that all remuneration or other amounts due and payable by You to any of your employees, subcontractors and subconsultants have been paid; and

  (vii) any other supporting documentation that We reasonably request.

(f) Payment is on account only and shall not be deemed to represent acceptance of the Supply or confirmation of the accuracy of any Tax Invoice. You acknowledge and agree that if You receive any payment in excess of Your entitlement under this Agreement, any such overpayment shall be a debt You owe to Us.

B.3.1.4 Withholding and set-off

We may set off or withhold against the amount payable to You under any Tax Invoice any amount which We are required to deduct by Law and any amount which You owe us under this Agreement or otherwise.

B.4 Changes

B.4.1 Variations

At any time in our discretion We may vary the Scope of Work by issuing a Variation Direction or a Variation Request.

B.4.1.1 Variation Directions

If we issue a Variation Direction then:

(a) You must perform, or notify us within five (5) Business Days that you are unable to perform, the Variation.

(b) The Variation shall be valued according to:

  (i) any applicable rates or prices included in the Contract Documents;

  (ii) if no such rates or prices exist, at such rates or prices as We agree with You; or

  (iii) if we cannot reach on agreement on rates and prices, at such rates or prices as We reasonably determine.

(c) Any dispute as to the valuation of a Variation shall be dealt with according to clause B.13 but no such dispute shall excuse either Party from performing any of their obligations under this Agreement.

B.4.1.2 Variation Requests and Proposals

If we issue a Variation Request then:

(a) You must provide a Variation Proposal within five (5) Business Days of receiving the Variation Request.

(b) The Variation Proposal must include:

  (i) the cost of the proposed Variation;

  (ii) any effect on the Date for Delivery; and

  (iii) any further information We may request.

B.4.1.3 Variations Proposed by You

If You reasonably consider that a direction We have given you, other than a Variation Direction or a Variation Request, constitutes or requires a Variation, you may submit a Variation Proposal which complies with the requirements of clause B.4.1.2 and which We will consider according to clause B.4.1.4.

B.4.1.4 Our response to a Variation Proposal

We may respond to a Variation Proposal as follows:

(a) approve the Variation Proposal and change the Purchase Price and Date for Delivery accordingly;

(b) reject the Variation Proposal and, acting reasonably, provide an alternative proposal; or

(c) reject the Variation Proposal and make no change to the Purchase Price or Date for Delivery.

B.4.1.5 Commencement of Variations

(a) You must not commence work on the requested Variation until We have approved Your Variation Proposal under clause B.4.1.3(a) or You have accepted an alternative We proposed under clause B.4.1.3(b).

(b) You shall not be entitled to any increase in the Purchase Price or any extension of the Date for Delivery for any work on any Variation which You commence in breach of clause B.4.1.4(a).

B.4.2 Delays and Suspension

B.4.2.1 Notice of Potential Delay

You must inform Us in writing within five (5) Business Days of when you became, or should reasonably have become, aware of any events or circumstances which may affect Your ability to meet the Date for Delivery.

B.4.2.2 Delay Report

Within five (5) Business Days of issuing a notice under clause B.4.2.1, You must provide Us with a Delay Report including:

(a) all relevant details of the event or circumstance;

(b) an estimate of the effect, if any, it will have on the Delivery Date;

(c) any corrective or mitigating measures You have undertaken; and

(d) any other information We have requested.

B.4.2.3 Extension of Date for Delivery

(a) Upon receipt of the Delay Report under clause B.4.2.2, We may, at our sole discretion, extend the Date for Delivery if, and to the extent that, the delay in providing the Supply was caused or contributed to by:

  (i) a Force Majeure Event; or

  (ii) Our acts or omissions, except where such acts or omissions are expressly permitted under this Agreement.

(b) At our absolute discretion, whether or not you have issued a Delay Notice under clause B.4.2.1 or a Delay Report under clause B.4.2.2, We may, any time and for any reason, extend the Date for Delivery. However, We are not obliged to exercise this discretion for Your benefit.

B.4.2.4 Suspension of Agreement

(a) At any time and for any reason, We may suspend all or part of this Agreement by issuing written notice to You.

(b) The Suspension shall take effect immediately or on such other date as may be specified in the notice.

(c) You must cease all activities subject to the Suspension until We notify You in writing that the suspension is lifted.

(d) If we notify you that the Suspension is lifted you shall recommence the Supply as soon as practicable or on such other date as may be specified in the notice.

B.4.2.5 Suspension of Obligations Due to Force Majeure Event

(a) If a Party's capacity to fulfil its obligations under this Agreement is affected by a Force Majeure Event, the Affected Party must promptly notify the other Party in writing.

(b) While the Force Majeure Event continues:

  (i) the obligations of the Affected Party will be suspended to the extent they are affected; and

  (ii) the Affected Party must:

    (A) keep the other Party updated on any material changes related to the Force Majeure Event;

    (B) use reasonable efforts to mitigate, avoid or overcome the impact of the Force Majeure Event; and

    (C) continue to perform all their other obligations under this Agreement.

(c) No Party shall be entitled to monetary compensation due solely to the occurrence of a Force Majeure Event.

B.4.2.6 Compensation for Delay or Suspension

Subject to clause B.4.2.5(c), clause B.4.2.6 and a duty to mitigate, You may claim the reasonable Open Book Costs directly incurred by You as a result of any delay or suspension to the extent that such delay or suspension was caused or contributed to by Our act or omission except where such acts or omissions are expressly permitted by this Agreement.

B.4.2.7 Non-Compliance

If you do not comply with clauses B.4.2.1, B.4.2.2 and B.4.2.5(b)(ii) then We will not be obliged to pay and You will not be entitled to claim any compensation under clause B.4.2.6, any such claim shall be extinguished and this clause B.4.2.7**.** shall absolutely bar you from making any such claim whatsoever.

B.5 Insurance Requirements

B.5.1 Insurance Policies You must Effect and/or Maintain

(a) Unless otherwise specified through Our Prequalification Platform, this clause B.5 sets out the minimum insurance cover which You are required to effect and maintain as a precondition to provision of the Supply and payment of the Purchase Price.

(b) Different insurance requirements may apply to You and Your Personnel at different times during the Term depending on the Type of Supply You may be providing under different Purchase Orders from time to time.

(c) You must use Your own judgement to determine the nature and amount of insurance cover You effect and maintain. Nothing in this clause B.5 represents advice about or a limit upon the nature and amount of insurance cover which You effect or maintain.

(d) Subject to any other express provision of these Terms, nothing in this clause B.5 shall operate to limit your liability arising from or in connection with the Supply or this Agreement.

B.5.1.2 Public and Products Liability Insurance

(a) You must effect and/or maintain a Public Liability Insurance Policy providing cover against all Third Party Claims for general public liability for not less than $20 million for any one occurrence and unlimited in the aggregate.

(b) If the Supply includes any Goods, you must effect and/or maintain a Products Liability Insurance Policy providing cover against all Third Party Claims for products liability for $20 million for each occurrence and limited to not less than $20 million in the aggregate.

B.5.1.3 Workers' Compensation Insurance

(a) You must effect and/or maintain Workers' Compensation Insurance which provides cover for all Employee Claims, including any compulsory statutory workers' compensation benefits and common law liability.

(b) You must effect and/or maintain such Workers' Compensation Insurance Policies as required by Law in all relevant legal jurisdictions applicable to You and Your Personnel in connection with the Supply.

(c) If, arising from or in connection with the Supply or this Agreement, any of Your Personnel will enter any Site which is located at any mine or mining operation, the Workers' Compensation Insurance Policy which provides cover in the relevant jurisdiction must contain an Industrial Disease Common Law extension.

B.5.1.4 Motor Vehicle Insurance

If You or Your Personnel provide or bring any motor vehicles to any of Our Sites, or use any motor vehicles in the course of providing the Supply, including motor vehicles You own, hire or are leasing:

(a) All such motor vehicles must be licensed in accordance with applicable Legislation that incorporates compulsory third-party bodily injury (CTP) insurance for injuries caused to others.

(b) You must effect and/or maintain a Motor Vehicle Third Party Liability Policy to provide cover for all such Motor Vehicles against all Third Party Claims with a minimum limit of $20 million.

(c) If, arising from or in connection with the Supply or this Agreement, any of Your Personnel will enter any Site which is located at any mine or mining operation, the Workers' Compensation Insurance Policy which provides cover in the relevant jurisdiction must contain an Industrial Disease Common Law extension;

B.5.1.5 Plant & Equipment Insurance

If You or Your Personnel provide, bring to any of Our Sites, or use in the course of providing the Supply, any plant or equipment, you must take out and maintain a Comprehensive Plant & Equipment Insurance Policy:

(a) for an amount not less than the current market value of such plant & equipment; and

(b) providing legal liability coverage for both road registered and unregistered Equipment for a amount not less than $20 million for any one occurrence and in the aggregate.

B.5.1.6 Goods in Transit, Carrier or Marine Cargo Insurance

If You or Your Personnel are responsible for transporting Goods under the Agreement, you must effect or maintain such insurance policies as are necessary to provide cover against all liabilities for loss or damage to such Goods for 100% of their replacement value, with a 90-day unpacking clause.

B.5.1.7 Professional Indemnity Insurance

If the Supply includes any Professional Services, including Consultancy or Design Services, you must take out and maintain a Professional Indemnity Insurance Policy which provides cover against any legal liability arising from breach of professional duty under or in connection with Your Supply for the duration of the Engagement Period and for 7 years after the Expiry Date. If the Purchase Price is:

(a) less than or equal to $1 million, the policy must provide cover for an amount no less than $1 million in relation to any one claim, and $2 million in the aggregate; or

(b) greater than $1 million, the policy must provide cover for an amount no less than $5 million in relation to any one claim, and $10 million in the aggregate.

B.5.2 Required Insurance Policy Endorsements

B.5.2.1 Generally

Each Policy you effect and/or maintain, except any policy you effect and/or maintain under clause B.5.1.7, must be endorsed to include:

(a) Us as an additional insured, with respect to any liability We incur as a result of Your acts or omissions;

(b) if You are unable to include us as an additional insured as required by clause B.5.2.1(a), a Principal's Indemnity extension in Our favour, with respect to any liability We incur as a result of Your acts or omissions;

(c) a waiver of all express or implied rights of subrogation in Our favour;

(d) a cross-liability clause, noting that each of the parties comprising the insured shall be considered as a separate entity, and the insurance applies as if a separate policy has been issued to each Party; and

(e) a clause that provides that a breach of condition or term of insurance by one insured will not adversely affect the cover provided to another insured under the policy.

B.5.2.2 Workers' Compensation Insurance

The requirements for endorsements in clause B.5.2.1 shall only apply to any policy you effect or maintain under clause B.5.1.3 to the extent that they are available under the laws of the relevant jurisdiction.

B.5.3 Further insurance requirements

(a) Where applicable to the Supply, You or Your Personnel are required to effect or maintain other insurance policies due to Pre-qualification, Good Industry Practice, Legislation or at Our request

(b) You must ensure any Subcontractor You engage also effects and/or maintains the appropriate insurance policies which comply with the requirements of this clause B.5.

(c) You must promptly provide certificates of currency of the insurance policies you and your Subcontractors are required to effect and/or maintain as evidence of You and Your Subcontractor's compliance with this clause B.5, through Our Prequalification Platform or otherwise at Our request.

(d) Unless We were solely responsible for the occurrence giving rise to an insurance claim, You must pay any excess, deductible or self-insured retention amount which is payable under any insurance claim arising from or in connection with the Supply or this Agreement.

(e) If You or Your Subcontractors fail to effect or maintain any required insurance, then We may, at Your cost effect and maintain that insurance and pay the necessary premiums and any other required costs.

(f) If We make any payment under clause B.5.3(d) or clause B.5.3(e), You indemnify Us for these costs and We may recover from You the amount We paid as a debt due and payable.

(g) You must ensure (and, where relevant, procure that Your Subcontractors ensure) that any insurance required to be taken out (other than statutory insurances) is effected with reputable insurers with a financial security rating of A- or better by Standard & Poors or the equivalent rating with another internationally recognised rating agency, on terms and conditions consistent with cautious and prudent risk management practice by a Relevant Supplier.

(h) You must, as soon as practicable and in writing, inform the relevant insurer and Us of any occurrence arising from or in connection with this Agreement or the Supply that may give rise to a claim under any insurance policy required by this Agreement and keep Us informed of all developments concerning the claim.

B.6 Integrity and Ethics

B.6.1 Compliance with Our Code of Conduct and Termination

(a) You and Your Personnel must comply with Our Code of Conduct and this clause B.6.

(b) Failure to comply with Our Code of Conduct or any part of this clause B.6 may result in termination of this Agreement by written notice under clause B.11.3.

(c) We reserve the right to make amendments to Our Code of Conduct at Our discretion.

(d) The Code of Conduct available on Our website shall be deemed to be the current version at all times.

B.6.2 Compliance with Modern Slavery Legislation

(a) You and Your Personnel must comply with applicable Modern Slavery Legislation and must not engage in Modern Slavery or engage conduct or behaviour which is inconsistent with or violates Human Rights.

(b) You must:

- (i) identify and address Modern Slavery risks in your operations and supply chains;
- (ii) immediately notify Us of any confirmed or suspected instances of Modern Slavery or Human Rights violations; and
- (iii) provide evidence of compliance if requested by Us.

B.6.3 Anti-Bribery and Corruption

(a) You and Your Personnel must not:

- (i) engage in bribery, facilitation payments, or improper benefits; and
- (ii) breach any Anti-Corruption Laws.

(b) You must promptly report any suspected or actual breaches to Us.

B.6.4 Sanctions Compliance

(a) You and Your Personnel must not:

- (i) be, or become, a Sanctioned Person;
- (ii) breach applicable Sanctions; and
- (iii) engage with any Sanctioned Person in connection with this Agreement.

(b) You must immediately notify Us if You or Your Personnel become a Sanctioned Person or breach any Sanctions obligations.

B.6.5 Conflicts of Interest

You must declare any actual, potential, or perceived conflicts of interest to Us as soon as You become aware of them.

B.7 Our Property

(a) Where any of Our Property is made available to You in connection with this Agreement, You must utilise it solely for carrying out Your responsibilities under this Agreement and put in place measures to ensure it is used safely, efficiently, and appropriately.

(b) Title in Our Property remains with Us, but You are responsible for the risk of Our Property if You have care, custody and control of Our Property from the time of receipt, until the later of its return to Us or the end of the Term.

(c) You will be responsible for any Loss resulting from the use of Our Property by Your Personnel, excluding fair wear and tear, with such Loss recoverable from You by Us as a debt payable on demand.

(d) Our Property must not be taken off any relevant Site unless We have given prior written approval. If such approval is granted:

  (i) You must keep Our Property in good operating condition (excluding fair wear and tear) and ensure it is used solely for its Intended Purpose; and

  (ii) return Our Property to the applicable Site without delay once it is no longer needed.

B.8 Indemnity and Liability

B.8.1 Indemnity

You shall indemnify Us, keep Us indemnified against, and hold Us harmless from, any liabilities, claims, damages, costs or Losses arising from or in connection with:

(a) injury, illness, disease (including psychological injury, illness or disease) or death of, any natural person;

(b) damage, destruction and loss of use of any real or personal property;

(c) any breach of applicable Legislation by You or Your Personnel; and

(d) any Loss caused by a breach of this Agreement by You or Your Personnel.

B.8.1.2 Your liability under this clause will be proportionally reduced to the extent that any liability was caused or contributed to by Our negligent acts or omissions.

For the purposes of this clause B.8.1 the terms “Us”, “We” and “Our” include Our Personnel.

B.8.2 Limitation of liability

Subject to clauses B.8.3, B.8.4 and B.8.5, each Party’s total liability for Loss, incurred by the other Party in connection with this Agreement, is limited to 100% of the total Purchase Price paid or payable by Us under this Agreement.

B.8.3 Exclusion of Consequential Loss

To the maximum extent permitted by Law and subject to clause B.8.4, neither Party is liable to the other Party for any Consequential Loss arising from or in connection with this Agreement, whether such liability arises under statute, in contract, in tort (including negligence), at common law, in equity or otherwise.

B.8.4 Exceptions

The limitations and exclusions set out in clauses B.8.2 and B.8.3 shall not apply so as to limit or exclude or a Party’s liability arising from or in connection with any:

(a) injury, illness, disease (including psychological injury, illness or disease) or death of, any natural person;

(b) damage, destruction or loss of use of real or personal property belonging to a third party;

(c) criminal, grossly negligent, wilfully reckless acts or omissions of a Party or its Personnel;

(d) fraud, dishonesty or wilful misrepresentation by a Party or its Personnel;

(e) repudiation, abandonment or wilful breach of this Agreement;

(f) breach of third party IP rights or Moral Rights;

(g) breach of Your obligations under clause B.9 (Data, Information and Intellectual Property);
(h) breaches of Legislation, including any penalties imposed; or
(i) any liability that cannot be excluded or limited at Law.

B.8.5 Proceeds of Insurance

(a) The limit of liability in clause B.8.2 and the exclusion of Consequential Loss in clause B.8.3 do not apply to the Proceeds of Insurance, and the Proceeds of Insurance shall not be counted for the purposes of applying the Limitation of Liability in clause B.8.2.

B.8.5.2 For the purposes of this clause B.8.5, the term "Proceeds of Insurance" is defined as the total of the following:

(a) any amounts which You recovered or You could recover under any insurance policy which You are required to effect and/or maintain under this Agreement;
(b) any amounts which You could have potentially recovered under any such an insurance policy, but which You cannot recover because:
  (i) You failed to properly make or diligently pursue a claim in a timely manner;
  (ii) Your rights in respect of such insurance policy have been adversely affected or prejudiced; or
  (iii) the insurance policy has been cancelled or voided;
  by reason of any act or omission of You or Your Personnel; and
(c) the total amount by which any excess, deductible or self-insured retention has operated to reduce the amount recovered, recoverable or potentially recoverable.

B.9 Data, Information and Intellectual Property

B.9.1 Intellectual Property

B.9.1.1 Background IP

(a) You retain ownership of all Your IP, while We retain ownership of all Our IP.
(b) You grant Us a perpetual, worldwide, irrevocable, non-exclusive, transferable, sublicensable, and royalty-free license to use, adapt, modify, and reproduce the Your IP as necessary to:
  (i) install, maintain, operate, improve, repair, or modify the Supply provided under this Agreement; and
  (ii) exercise and enjoy Our rights in relation to the Project IP.
(c) We grant You a non-exclusive, non-transferable, revocable, and royalty-free license to use Our IP and Project IP solely for the purpose of providing the Supply under this Agreement.

B.9.1.2 Project IP

(a) All Project IP created in connection with this Agreement shall immediately vest in Us, and You agree to assign (and procure the assignment of) all rights, title, and interest in such Project IP to Us.
(b) You must not disclose, reproduce, or otherwise exploit Project IP or Our IP, nor permit any third party to do so, except as required solely to provide the Supply to Us.

B.9.1.3 Subcontracts

Every subcontract entered into in connection with this Agreement must include provisions requiring the subcontractor to assign to Us:

(a) any of their IP as set out in clause B.9.1(b); and
(b) all Project IP created by the subcontractor for purposes related to this Agreement.

B.9.1.4 Moral Rights: Obtaining Consents and Waivers

To the extent any person holds Moral Rights in Your IP or Project IP, You shall secure, at no cost to Us, all necessary licenses, consents, waivers, or assignments to permit We to use, adapt, modify, reproduce, or otherwise exploit such IP without infringing those Moral Rights. Such permissions must cover:

(a) the license granted for the Your IP under this Agreement; and
(b) Our ownership rights in the Project IP under this Agreement.

B.9.1.5 Notification of Infringement

If You become aware of any suspected, threatened, or actual infringement of Project IP or Our IP, You must promptly inform Us in writing and provide all reasonable assistance We request to:

(a) protect Project IP or Our IP;

(b) defend or enforce claims related to the infringement; and

(c) obtain any additional rights We require for use under this Agreement.

B.9.1.6 IP Warranties and Indemnities

(a) You warrant that:

  (i) You own the IP rights in the Your IP, and Our use of Your IP will not infringe third-party rights or violate applicable laws;

  (ii) the provision of Supply and Our use or ownership of it will not infringe third-party IP rights or breach any laws;

  (iii) Your Purchase Price includes all necessary licenses and consents to use any third-party IP required for Us to fully utilise and enjoy the full benefit of the Supply; and

  (iv) Project IP does not infringe third-party rights, and You have the right to assign all Project IP to Us as provided in clauses B.9.2 and B.9.3.

(b) If You transfer ownership of Your IP, You must ensure any successor in title is bound by the relevant obligations under this clause B.9.

(c) You are liable for and indemnify Us and Our Personnel against any Loss arising from any actual or alleged infringement or violation of IP Rights or Moral Rights resulting from the performance of this Agreement, the use of Project IP or Your IP, or any of the uses referred to under clause B.9.1(b).

B.9.2 Confidential Information

B.9.2.1 Shared responsibilities concerning Confidential Information

(a) Except as permitted under clause B.10.2, neither Party is allowed to use or reveal the other Party's Confidential Information for any reason other than to carry out this Agreement, unless the other Party has given its prior written consent.

(b) Each Party commits to maintaining the secrecy of the other Party's Confidential Information and to safeguarding its confidentiality. This includes taking all reasonable steps to secure the Confidential Information against unauthorised access.

B.9.2.2 Authorised disclosures

(a) Subject to clause B.10.3, the Parties are entitled to disclose the other Party's Confidential Information:

  (i) where prior written consent has been obtained from the other Party;

  (ii) to its own Personnel, but solely to the extent necessary to perform its obligations under this Agreement;

  (iii) to the Party's legal representatives, auditors or financial consultants; or

  (iv) where required under Law, to a Government Authority or a stock exchange.

(b) Nothing in this Agreement restricts Us from providing Confidential Information to Our Related Bodies Corporate, or to their legal, audit, financial or other advisers, including any agent acting for such advisers.

B.9.2.3 Disclosure Responsibility

Each Party is responsible to ensure its Personnel and any other third party who receives the other Party's Confidential Information, does not disclose that information. Before each Party's Personnel has access to the other Party's Confidential Information, they must be bound by an appropriate confidentiality obligation in respect of the other Party's Confidential Information.

B.9.3 Security of Personal Data

B.9.3.1 Processing of Personal Data

Where You are engaged in the Data Processing of Personal Data, You must:

(a) adhere to all applicable Data Privacy Laws;

(b) Data Process Personal Data solely for the purpose for which it was obtained or as required under Law, and strictly in accordance with this Agreement; and

(c) provide assistance to Us in responding to data subject requests to exercise their rights (including requests for access, correction or deletion of Personal Data).

B.9.3.2 Protection of Personal Data

You are required to:

(a) implement and maintain suitable technical and organisational safeguards to protect all Personal Data against unauthorised or unlawful Data Processing;

(b) ensure that all Personnel with access to Personal Data are subject to appropriate confidentiality obligations, either under Law or through a binding confidentiality agreement; and

(c) retain Personal Data only for the duration required by Law or for the purpose for which it was collected.

B.9.3.3 Unauthorised transfer, disclosure or data breach involving Personal Data

(a) Unless We have given Our prior written approval, You must not engage a third party to Data Process any Personal Data, nor transfer (including via remote access) any Personal Data outside the country in which it was originally collected.

(b) You must immediately inform Us if, in connection with this Agreement, any of the following takes place:

  (i) a breach or potential breach of any applicable Data Privacy Laws;

  (ii) accidental loss, destruction, unauthorised access to, or disclosure of Personal Data; or

  (iii) a data security or cyber incident affecting any system (including systems operated by a Subcontractor) that affects or could affect Personal Data.

(c) In the event of any incident under clause B.11.3(b), You must:

  (i) take all practicable steps to limit or mitigate any adverse consequences of the incident;

  (ii) work with Us to issue any required notifications to affected individuals or regulatory authorities, in accordance with Our instructions; and

  (iii) support any investigation initiated by a data protection authority in relation to the incident, in coordination with Us.

(d) If any Personal Data in Your possession or control, including through the supply of software or related support services, becomes corrupted, lost or compromised, You must, at Your own expense, take all reasonable steps within Your capability to restore or rectify that Personal Data.

B.10 Dispute Resolution

(a) In the event of a dispute arising from or connected to this Agreement, both Parties shall use reasonable endeavours to settle the dispute before commencing any formal legal process.

(b) If no resolution is reached within 30 days following the first meeting intended to address the dispute, either Party may initiate formal legal proceedings.

(c) Notwithstanding the dispute, both Parties must, as far as reasonably practicable, continue to perform their obligations under this Agreement.

(d) Nothing in this clause shall prevent either Party from seeking urgent injunctive relief from a court.

B.11 Termination

B.11.1 Termination due to Insolvency

(a) Subject to clause B.9.1(b), either Party may immediately end this Agreement by providing written notice if the other Party becomes Insolvent.

(b) The operation of this Agreement is subject to any Stay that may prohibit the enforcement of rights hereunder. In case of any inconsistency between this Agreement and the Stay, the terms of this Agreement shall be interpreted in accordance with the Stay.

B.11.2 Your termination rights for non-payment

You are entitled to terminate this Agreement by giving Us 30 days' written notice if We fail to pay any undisputed amount on a valid Tax Invoice within 60 days following the due date specified in clause B.3.1.3(c).

B.11.3 Termination for misconduct by either Party

If either Party or its Personnel engage in fraud, a criminal offence, dishonesty, gross negligence, wilful default, repudiation, wilful misconduct, or misrepresentation related to this Agreement, the non-offending Party may terminate immediately by providing written notice.

B.11.4 Termination for prolonged Force Majeure Event or Suspension

Either Party may end this Agreement by providing 30 days' written notice if:

(a) We suspend this Agreement for a continuous period of six months or longer; or

(b) a Force Majeure Event prevents the Affected Party from fulfilling its obligations for a continuous duration of three months, or for an aggregate of six months within any 12-month period.

(c) Upon termination under clause B.9.4(b), no Party will have any liability to or claim against the other Party in respect of such termination (other than in respect of rights and obligations which accrued prior to the occurrence of the Force Majeure Event).

B.11.5 Our right to terminate for cause

We may terminate this Agreement immediately, in whole or in part, by notifying You if:

(a) We have a termination right under clause B.6;

(b) You or Your Personnel commit a material breach of this Agreement which We consider incapable of remedy; or

(c) You or Your Personnel commit a material breach that is capable of remedy but fail to rectify the breach to Our satisfaction, at Your cost, within 14 days of receiving written notice specifying the breach.

B.11.6 Our right to terminate for convenience and compensation

(a) We may, at its sole discretion and without cause, terminate this Agreement wholly or partially by providing You with at least seven days' written notice, subject to payment of reasonable compensation under clause B.9.6(b).

(b) Without limiting any of Our other rights under this Agreement, if We terminate under clause B.9.6(a), We will compensate You for:

  (i) any unpaid Purchase Price for any part of the Supply which was provided before the termination date;

  (ii) Open Book Costs reasonably incurred for materials ordered to fulfil this Agreement, provided ownership of those materials transfers to Us upon payment;

  (iii) demobilisation costs for Your Personnel and Equipment from the Site (if applicable); and

  (iv) costs reasonably incurred in complying with any termination-related instructions issued by Us.

B.11.7 Obligations following termination or expiry

Upon expiry or termination of this Agreement, You must promptly:

(a) cease providing the Supply;

(b) stop using any of Our Property, Our IP, and Project IP;

(c) undertake any necessary steps, or follow Our instructions, to transfer and protect Our Property;

(d) take all reasonable actions to reduce and limit any costs to Us resulting from termination; and

(e) within 14 days after termination or expiry, return all copies of Our IP and Project IP in any format that are under Your or Your Personnel's control, or if requested, delete or destroy such materials, except where retention is required by Law. Upon request, You shall provide a certificate confirming compliance with this obligation.

B.12 General, Terms, Definitions and Interpretation

B.12.1 General Terms

B.12.1.1 Notices

Notices in relation to this Agreement must be in writing, and sent to the representative of the relevant Party of the via one of the following methods:

(a) Delivery by hand with the delivery date being the date of delivery

(b) Delivery by post with the delivery date being 3 Business Days if sent from within Australia and 5 Business Days of sent from outside of Australia; and

(c) Delivery by email with the delivery date being the time and date in the location to which the notice is sent, equivalent to the time shown on the delivery receipt notification received by the Party sending the email or other reliable electronic means to verify receipt.

B.12.1.2 Survival of obligations

Clauses B.2.1, B.5.1.7, B.6, B.8.1, and B.9 survive termination or expiry of this Agreement and do not merge on completion.

B.12.1.3 Waiver

(a) A waiver of a right arising from any breach of this Agreement must be made in writing and signed by the Party that is granting the waiver.

(b) Any failure to exercise a right, remedy or power does not affect the enforceability of that right, remedy, entitlement, power, or the enforceability of this Agreement as a whole.

B.12.1.4 Jurisdiction and governing law

Both Parties accept the laws of the Australian State where this Agreement is performed as the governing law of this Agreement and agree to submit to the exclusive jurisdiction of the Courts of that State.

B.12.1.5 Entire agreement

The Agreement between the Parties as amended or varied from time to time represents the entire agreement between the Parties and supersedes all prior arrangements and negotiations whether written or oral.

B.12.1.6 Validity of Provisions

If any provision of this Agreement is held to be invalid, unenforceable or void in any jurisdiction, that determination will not affect the enforceability or validity of the remaining provisions within that jurisdiction. The Agreement is to be interpreted and applied as if the affected provision had been omitted, without affecting the overall intent of the Parties.

B.12.1.7 Trust for Related Bodies Corporate

(a) Each Party acknowledges and agrees that it holds the benefit of:
   - (i) any indemnities provided under this Agreement; and
   - (ii) any express rights under this Agreement intended to benefit its Related Bodies Corporate,
   - (iii) in trust for those Related Bodies Corporate.

(b) Each Party further agrees that the other Party is authorised to enforce those indemnities and rights on behalf of its own Related Bodies Corporate and that it consents to the other Party doing so.

B.12.2 Definitions and Interpretation

B.12.2.1 Definitions

In this Agreement:

Affected Party means a Party that is prevented from performing its obligations under this Agreement by a Force Majeure Event.

Agreement means the agreement between You and We comprised of the Purchase Order, these Terms and all other documents annexed to this document or specifically incorporated by reference including any terms and conditions of Our Prequalification Platform and Your Pre-Qualification.

Anti-Corruption Laws mean any Laws and Legislation relating to bribery or corruption, including but not limited to the Australian Commonwealth and State based anti-corruption and anti-bribery legislation, the Australian Criminal Code Amendment (Bribery of Foreign Public Officials Act), the 1999 US Foreign Corrupt Practices Act 1977 and the UK Bribery Act 2010.

Australian Consumer Law means Schedule 2 of Volume 4 of the *Competition and Consumer Act 2010* (2010).

Business Day means a day that is not a Saturday or Sunday or a public holiday in the relevant jurisdiction or 27, 28, 29, 30 or 31 December in any year

Client means a client or head contractor with which We have, or may have, a contractual relationship.

Client-Supplied Items those items of plant, materials or equipment provided by a Client which are required to be installed by Us and must be included in the performance of the Supply, including the preparation of the design (as applicable).

Confidential Information means:

(a) the Terms and the contents of the Framework Agreement and any Supply Agreement;

(b) any Personal Data;

(c) any other information that is labelled as confidential, is confidential by nature, or which the receiving Party ought reasonably to know is confidential.

(d) all information, in any form disclosed or made available by Us to You or otherwise obtained or accessed by You while performing the Supply, including any information:

  (i) concerning Our operations, business activities, Clients or Personnel;

  (ii) provided by or on behalf of We to You, including all We-supplied materials, Our IP, and Project IP; and

(e) any pricing information or commercially sensitive details You or Your Personnel provided to Us;

but excludes any information which was, is or becomes available in the public domain, or was already known to the receiving Party, other than as a consequence of any breach of these Terms.

Consequential Loss means any indirect, consequential, special or punitive damages or losses (including loss of use, profit, contract, production, business or business opportunity, loss of or damage to data, reputation, goodwill or credit rating, increased costs or expenses of construction, operation or financing however characterised, payment of liquidated sums or damages under any other agreement and any other loss or damage which was not within the reasonable contemplation of the parties at the time they entered into this Agreement);

Construction Specifications means any budget, schedule or other specifications We have given you for the construction of any Designed Works.

Contract Documents means the Framework Agreement and each Supply Agreement (including any relevant Modules and respective component documents).

Your IP means Your IP Rights which are in existence at the date of acceptance of the Purchase Order or come into existence after the date of the Purchase Order that are not related to or connected to this Agreement.

Contractor Management System means Our preferred contractor management processes, as notified from time to time by Us or Our relevant Personnel.

Date for Delivery means the date the Supply must be delivered, supplied or completed as specified in the Purchase Order.

Data Privacy Laws means any Laws relating to privacy, data protection or information security, that apply to the Parties in connection with this Agreement.

Data Processing means any operations that are implemented upon Personal Data including recording, collection, structuring, organisation, storage, use, alteration, retrieval, disclosure by transmission, consultation, dissemination, restriction, deletion or destruction.

Defect means any defect, flaw or problem with any Supply including any non-compliance with the requirements and specifications of this Agreement.

Defective Supply means any Supply containing a Defect, including any Goods which are not new, of merchantable quality, or fit for their Intended Purpose, and any Services which have not been performed to the quality or standard which could reasonably be expected of a Relevant Contractor.

Deliverables means all applicable Work Plans, qualifications, permits, licences, certificates, strategies, ideas, plans, materials developed for or supplied by the You to Us in the course of this Agreement or documentation relevant to this Agreement or as requested by We.

Delivery Date means the date the Supply is actually delivered, supplied or completed.

Delivery Place means the place we specify for the delivery and collection of Hired Equipment.

Design means any design which forms part of the Supply, which may comprise drawings, specifications, calculations, engineering certificates and any other Deliverables and supporting documentation which We require.

Designed Works means any Works which You have designed or are required to design.

Discrepancy means any inconsistency, conflict, ambiguity or discrepancy within or between any one or more of the Contract Documents, or any aspect in which the Contract Documents are insufficient to enable You to carry out the Services.

Dry Hire means the hire or lease of plant or equipment without the provision of Personnel to operate them.

Employee Claim means any claim concerning injury, occupational disease or death by Your Personnel which is caused or contributed to by You or arises out of or in connection with this Agreement.

Environmental Laws means any Law relating to the environment, including any Commonwealth or state based Legislation.

Equipment means the equipment, plant, tools, appliances, Hired Equipment and other property supplied by You for the purpose of supplying the Goods or Services and fulfilling Your obligations under this Agreement.

End Date means the later of:

(a) the date on which all Goods have been delivered and, where required, commissioned, and all Services have been completed; or

(b) the date on which You have demobilised all of Your Personnel and Equipment from the Site in accordance with this Agreement.

Force Majeure Event means any one, or combination, of the following events or circumstances:

(a) cyclone, fire, earthquake or other catastrophic natural disaster;

(b) rebellion, riot, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy or war;

(c) contamination by radioactivity, ionising radiation, nuclear, chemical or biological contamination,

but excludes any such event or circumstance, or its consequences, to the extent:

(d) it was caused by the Affected Party or the act or omission of the Affected Party or its Personnel; or

(e) it was within the reasonable control of the Affected Party or their Personnel;

(f) it was caused by any breakdown of Your Equipment or any Defects

(g) it could have been protected against, prevented or overcome by You if You had it acted as would ordinarily be expected of a Relevant Contractor.

FTA means the *Fuel Tax Act 2006* (Cth).

Good Industry Practice means the best standards, skills, methods, materials, equipment, procedures and practices currently prevailing in the relevant industry.

Goods means all goods to be supplied by You in accordance with this Agreement, including:

(a) all goods, equipment, materials, articles, or any other property or parts specified in any applicable Purchase Order and/or Scope of Work;

(b) the provision or supply of any Equipment (including Hired Equipment);

(c) all ancillary activities such as design, manufacture, inspection, testing, expediting, quality assurance and control, painting, packaging and delivery as specified or required.

Government Authority means any national, state, regional, local, territorial, or municipal government, or any ministry, department, court, tribunal, or administrative body that has legal jurisdiction over the Parties, the Goods or Services, or the Site.

GST Law has the meaning given in section 195-1 of *A New Tax System (Goods or Services Tax) Act 1999* (Cth).

Hire End Date means the date on which We will return the Hired Equipment to You at the Delivery Place.

Hire Start Date means the date on which You will deliver the Hired Equipment to Us at the Delivery Place.

Hire Period means the period from the Hire Start Date to the Hire End Date.

Hired Equipment means the Equipment that We have engaged You to hire or lease to Us (on Site or otherwise), as specified in this Agreement.

Human Rights refers to all internationally recognised human rights laws and standards, including:

(a) the rights and freedoms set out in the International Bill of Human Rights;

(b) the principles outlined in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work;

(c) the United Nations' Guiding Principles on Business and Human Rights ("UNGP"); and

(d) the Voluntary Principles for Security and Human Rights (VPI).

Insolvent means as defined in the *Corporations Act 2001* (Cth) and includes the state of Insolvency.

Intended Purpose means the relevant purpose of the Goods or Services as stated in this Agreement or as may reasonably be inferred from this Agreement by a Relevant Contractor.

IP Rights means all intellectual property rights including copyright and analogous rights, rights in relation to inventions (including patents), plant varieties, registered and unregistered trademarks (including service marks), registered designs, Confidential Information (including trade secrets), know-how, circuit layouts and all other rights throughout the world resulting from intellectual activity in the industrial, scientific or artistic fields but excludes Moral Rights.

Law means Legislation, common law, principles of equity, and any Government Authority requirements.

Legislation means any legislation for the time being in force and all subordinate or delegated legislation, proclamations, regulations, by-laws, orders, notices, rules of court, town planning schemes, resolutions, or other instruments made under or by a Government Authority pursuant to any such legislation, as amended, consolidated, re-enacted, or replaced, and all licences, qualifications, registrations, and other statutory requirements necessary for the supply of the Goods or Services under this Agreement.

Loss means costs, expenses (including legal costs on a full indemnity basis), losses, damages, charges, compensation, amounts paid on advice of legal advisers to compromise or settle a claim, taxes, outgoings, or other payments.

Modern Slavery means

(a) any exploitative practices and crimes including:

  (i) human trafficking or trafficking in persons as defined in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations' Convention against Transnational Organized Crime, done at New York on 15 November 2000 ([2005] ATS 27);

  (ii) child labour or the worst forms of child labour as defined in Article 3 of the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, done at Geneva on 17 June 1999 ([2007] ATS 38); and

  (iii) slavery and slavery-like practices; servitude; forced labour; debt bondage; forced marriage; sale or sexual exploitation of children; deceptive recruiting for labour or services; removal of organs; and organ trafficking; or

(b) any activity, practice, or conduct that would constitute an offence or is otherwise defined as modern slavery in any applicable anti-slavery and human trafficking Legislation.

Moral Rights has the meaning given in the *Copyright Act 1968* (Cth).

Open Book Costs means the costs reasonably, necessarily, actually and properly incurred which must be evidenced on an open book basis net of any rebates or benefits that may have, or will be, received.

Our Policies and Procedures means Our policies and procedures under or attached to this Agreement and/or provided to You from time to time, which are relevant to Your supply of Goods or Services under this Agreement, or the location for the supply, including those online (available via: www.genus.com.au);

Our IP means Our IP Rights which are in existence at the date of acceptance of the Purchase Order or come into existence after the date of the Purchase Order that are not related to or connected to this Agreement and includes Personal Data.

Our Property means any plant, equipment, tools, materials, drawings, data, specifications, diesel fuel, consumables, or other items made available by We to You or Your Personnel for the purpose of performing Your obligations under this Agreement.

Party means We or You, and Parties means You and We.

Personal Data means any information concerning a natural person which We provides to You in connection with this Agreement and includes natural persons that are identifiable from the information.

Personnel means:

(a) in relation to either Party, that Party and any of its Related Bodies Corporate, together with any of their respective directors, officers, employees, representatives, agents, advisers and contractors or consultants of any tier; but

(b) in relation to Us, excludes You and any of Your Personnel.

Pre-Qualification means Our process for You to demonstrate to Us that You meet the required criteria for a specific type of work or contract.

Pre-Qualification Platform means the preferred supplier management processes and platform, as notified from time to time by the relevant We Personnel; for example: Felix Enterprise Vendor Management Platform.

Purchase Price means the net amount paid or payable by We to You for the supply of the Goods and/or performance of the Services, as set out in the Purchase Order as adjusted by a Variation pursuant to clause 12.3.

PPS Law means the PPSA, any subsidiary delegated legislation and any relevant State or Territory enabling legislation.

PPSA means the *Personal Property and Securities Act 2009* (Cth).

Principal means the Client (if any) which has engaged us under a contract pursuant to which we are subcontracting to You our obligation to provide the Supply.

Project means the project (if any) which we are undertaking for the Principal of which the Supply will form a part.

Project IP means all present or future IP Rights that are created, discovered or coming into existence as a result of, for the purpose of, or in connection with, any Supply or this Agreement.

Proof of Delivery means:

(a) for Goods, a document which confirms the Goods were delivered and includes at least the freight provider's details, the name and signature of the recipient and the packing list; and

(b) for Services, a service log, time sheet or similar document which confirms that You have performed the Services.

Purchase Order Date means the earlier of the date You accept the Purchase Order and the date stipulated in the Purchase Order.

Purchase Order means the document titled 'Purchase Order' issued to You by We for the supply of Goods and/or performance of the Services in accordance with this Agreement.

Related Body Corporate means any related body corporate as defined in the *Corporations Act 2001* (Cth).

Relevant Consultant means a consultant which exercises the degree of professional care, skill, diligence and prudence that would reasonably be expected of a highly qualified and experienced consultant with substantial experience and expertise in providing services of a similar nature to the Services required by the Supply.

Relevant Contractor means a contractor that exercises the degree of care, skill, diligence, prudence, and quality workmanship that would reasonably be expected of a suitably qualified, experienced, skilled and highly competent contractor with substantial experience in undertaking work and obligations of a similar nature to the work and obligations required by the Supply.

Sanction means any financial, monetary or economic sanction, embargo or similar restrictive measures imposed, enacted, administered or enforced from time to time by a Sanctions Authority.

Sanctioned Country means any country / territory which is the target of country / territory wide Sanctions.

Sanctioned Person means any person or entity that is subject a Sanction and appears on a Sanctions List which includes:

(a) an entity wholly or partly owned or controlled, directly or indirectly, by a person or entity listed on a Sanctions List; or

(b) a person or entity that is located in a Sanctioned Country or is incorporated under the law of a Sanctioned Country or is acting on behalf of a person located in or organised under the laws of a Sanctioned Country.

Sanctions Authority means the following:

(a) Australia, including the Department of Foreign Affairs & Trade and the Australian Sanctions Office;

(b) the United Nations ("UN"), including the UN Security Council and the UN General Assembly;

(c) the European Union ("EU") including any relevant EU agency and any present or future EU member state;

(d) France, including the French Ministry for the Economy & Finance and the Directorate-General of the Treasury of France;

(e) the United Kingdom ("UK"), including His Majesty's Treasury, the UK Chancellor the Exchequer and the UK Secretary of State;

(f) the United States of America ("US"), including the US Department of State, the US Treasury and the US Office of Foreign Assets Control; and

(g) any authorities, institutions or agencies of any of the foregoing which they have authorised or may authorise to impose, maintain and/or enforce sanctions.

Sanctions List means any information or lists of sanctioned nationals or designated persons or entities (or equivalent) held, published, issued or maintained by a Sanctions Authority as updated from time to time.

Scope of Work means the Goods or Services to be supplied or performed by You and Your Personnel, specified in any documents of this Agreement including annexures to the Purchase Order, or incorporated in the Purchase Order by reference.

Services means all services to be performed by You in accordance with this Agreement, including:

(a) all services specified in any applicable Purchase Order and/or Scope of Work;

(b) the provision or supply of any Equipment (including Hired Equipment);

(c) any other obligations, duties, or services You are required to perform under this Agreement; and

(d) any functions or responsibilities not expressly detailed in this Agreement, but which are incidental to, or necessary for, the proper provision of the Goods or Services.

SHEQ means safety, health, environment and quality.

SHEQ Laws means all relevant Legislation relating to SHEQ on Site, or any other premises applicable to the supply of Goods or Services, including the *Work Health and Safety Act 2020* (WA), *Work Health and Safety (General) Regulations 2022* (WA), *Work Health Safety (Mines) Regulation 2022* (WA), *Rail Safety National Law (WA) Act 2015*, *Dangerous Goods Safety Act 2004* (WA), and any other Legislation dealing with workplace health and safety that may apply from time to time.

Site means the locations specified in the Purchase Order or Scope of Work, where the Goods or Services are to be supplied or performed.

Standards means Australian Standards, the Building Code of Australia and any other relevant standards applicable to the Goods and Services.

Stay means any limitation on the enforcement of rights or self-executing provisions in a contract, agreement, or arrangement pursuant to sections 415D, 415F, 434J, 434L, 434LA, 451E, 451G, or 451GA of the *Corporations Act 2001* (Cth).

Subcontract means any contract, subcontract or other arrangement between You and a Subcontractor permitted by We in connection with Your performance of Your obligations under this Agreement.

Supply means the supply of Goods, Services, or other things by You to Us pursuant to a Purchase Order.

Subcontractor means any person or entity engaged by You to supply any part of the Goods and/or perform any part of the Services and includes their employees, representatives, agents and consultants.

Taxes means any and all present and future goods and services, GST, documentary, interest equalisation, stamp, business, occupation, excise, income, sales, use, personal property, real property, value added, turnover, corporation, profits, gains, gross receipts or other taxes, withholdings, levies, fees, duties or other charges of any nature imposed (other than Taxes on Our net income) by a Government Authority, together with any penalties, fines or interest thereon or similar additions thereto, imposed, levied or assessed or otherwise payable.

Tax Invoice has the same meaning as set out in the GST Law.

Term means the period from the Purchase Order Date until the End Date (unless extended by the agreement of the Parties).

Terms means the terms and conditions of this Framework Agreement, as updated from time to time.

Third Party Claim means any claim concerning any Loss, damage, injury, loss of use or destruction of any real or personal property or any death or personal injury of any person that arises out of or in connection with Your, or Your Personnel's, acts or omissions.

Unfair has the meaning given to it in section 24 of the Australian Consumer Law.

Variation means any change to the Scope of Work or Purchase Price pursuant to clause 12 including any additions or reductions.

Variation Proposal means a written proposal provided by You to Us addressing the particulars of any Variation under this Agreement.

Variation Request means a request that you provide us with a Variation Proposal.

Warranty Period means 24 months from the End Date.

We means GenusPlus Group Ltd (ACN 620 283 561) or its Related Body Corporate as specified in the Purchase Order.

Wet Hire means the hire or lease of plant or equipment which includes the provision of Personnel to operate them.

(a) safety management plan,
(b) security management plan,
(c) emergency response plan,
(d) environmental management plan,
(e) construction management plan,
(f) traffic management plan,
(g) commissioning and handover plan;
(h) quality management plan, and
(i) employee relations management plan.

Works means any building or other structure which you are required to design and/or construct as part of the Supply.

You or Your means the person or entity who will deliver the Supply to Us, as set out in a Purchase Order.

B.12.2.2 Interpretation

(a) If You comprise two or more persons, the liability of each of those persons under this Agreement is joint and several.
(b) Headings in this Agreement do not affect interpretation of this Agreement.
(c) Words of inclusion shall not be interpreted as limitations.
(d) To the extent that any inconsistency or ambiguity arises as to a standard, specification or requirement under these Terms, they shall be interpreted such that the highest standard, most demanding specification or most onerous requirement shall apply.
(e) In this Agreement, a reference to:
    (i) the singular includes the plural and vice versa, and any gender also denotes the other gender;
    (ii) two or more clauses are inclusive of those referenced clauses;
    (iii) a person includes a body corporate and vice versa;
    (iv) time is the time of the location where the Goods are delivered, and the Services are performed or as otherwise stated;
    (v) any legislation means that legislation as amended, substituted, consolidated, re-enacted or replaced from time to time.
(f) each provision will be interpreted without disadvantage to the Party that drafted or proposed that provision.

MODULE C SUPPLY OF GOODS

C.1 Scope of this Module

This Module shall apply to any Supply Agreement which includes the supply of goods of any nature.

C.2 Warranties you provide for the Goods

You represent and warrant that the Goods are:

(a) new;

(b) of merchantable quality;

(c) fit for their Intended Purposes

(d) free from any charge, encumbrance, mortgage, security interest or other third-party interest, from the time of delivery to Site or to Us; and

C.3 Compliance

You represent and warrant that the Goods comply with:

(a) All the requirements of this Agreement;

(b) Any specifications, drawings or designs which form part of the Agreement;

(c) All relevant local, national and international law;

(d) All applicable Australian and International standards;

C.4 Title and risk of Goods

(a) Title of the Goods passes to Us, at the earlier of when:

  (i) We pay for the Goods in full;

  (ii) the Goods are incorporated into works of any nature or become fixtures; or

  (iii) the Goods are delivered to a delivery point nominated in the Purchase Order or to one of our Sites.

(b) Risk in any Goods remains with You until We accept delivery of the Goods at the delivery point nominated in the Purchase Order or, by agreement, at one of our Sites.

C.5 Repair or replacement of Goods

(a) You must at Your own cost promptly replace, make good any loss of, or repair the damage to, the relevant Goods where You bear the risk of loss under clause C.4(b).

(b) You may submit a Variation Proposal where clause C.5(a) does not apply and We direct You to perform replacement or repair work. Upon receipt of the Variation Proposal, We may, at our reasonable discretion, issue a direction for a Variation for the replacement or repair work in accordance with clause B.4.1.3.

C.6 Documentation

All consignments supplied to Us or bought onto Our premises or Sites by You or Your transport provider must, as a minimum, include:

(a) a consignment note;

(b) the Purchase Order number;

(c) a concise identification of all items shipped;

(d) a summary of outstanding or back order items on the Purchase Order;

(e) a complete record of Goods traceability, including quality and testing documentation;

(f) relevant safety data sheets (hazardous chemicals); and

(g) items with a weight in excess of 25kg, must be supplied and packaged in a manner that is ready for transport using a forklift or similar assisted means.

MODULE D SUPPLY OF SERVICES

D.1 Scope of this Module

This Module shall apply to any Supply Agreement which includes the supply of Services of any nature.

D.2 Obligations

D.2.1 Your Obligations

D.2.1.1 Provision of Services

(a) You must provide the Services to Us in accordance with the terms of this Supply Agreement.

(b) This Supply Agreement applies to the Services whether commenced before, on or after the date of this Supply Agreement.

(c) You must provide any Deliverables by the Date for Delivery.

(d) If the Purchase Order provides a programme or a schedule for completing the Services, You must provide the Services in accordance with that programme or schedule.

(e) You will make available to Us as part of the Services all knowledge, information, expertise, equipment and facilities available to or in the possession of You or any Subcontractor which may assist Us with enjoying the full benefit of the Services.

D.2.1.2 Standard of Services

(a) You must provide the Services:

- (i) in accordance with this agreement;
- (ii) exercising skill, care, diligence and prudence to the standard expected of a Relevant Contractor or Relevant Consultant, as applicable;
- (iii) in compliance with any applicable law including obtaining and complying with all permits and approvals and paying all fees in connection with the Services;
- (iv) so that the Services, when completed, are fit for their intended purpose; and
- (v) to Our reasonable satisfaction.

(b) Any items which You use or supply in conjunction with the Services must be of merchantable quality, comply with the SHEQ Requirements and any applicable standards specified in this Supply Agreement and be fit for their usual purpose and any purpose described in this agreement.

(c) You acknowledges that We are relying on Your advice, skill and judgment in the performance of the Services under this agreement. Without limiting the general nature of this clause D.2.1.2(c), You warrant to Us that You at all times will be suitably qualified and experienced and will hold all licenses required by law.

(d) You accept all risks arising out of or in connection with the performance of the Services (except those expressly accepted by Us under this Supply Agreement) and are not entitled to make any claim or adjustment to the Purchase Price or extension of time, and We have no liability to You in respect of any such matter.

(e) We may direct You to rectify an error, omission or defect in the Services. You must comply with any direction within the time stated in the direction, or if no time is stated, within a reasonable time.

D.2.2 Our Obligations

D.2.2.1 Information

We shall provide you with information which You require in order to perform the Services, provided that you shall not rely on any information We provide unless We agree otherwise, and in any case You shall make your own assessment of any information We provide and use Your own judgement in drawing conclusions from and using such information.

D.2.2.2 Payment for the Services

The Purchase Price payable to You under clause B.3.1will be the only consideration payable under this agreement and includes the cost of the Services and all other things required to be done by You under this Supply Agreement, and is deemed to include all incidental services, goods and materials required, and all risks, liabilities and obligations expressed or implied in this agreement.

MODULE E SUPPLY OF HIRED OR LEASED PLANT OR EQUIPMENT

E.1 Scope of this Module

This Module shall apply to any Supply Agreement which includes the supply of plant or equipment on the basis of a hire or leasing arrangement, with or without operators.

E.2 Other Relevant Modules

If you are providing the Hired Equipment on a Wet Hire basis, all the provisions of MODULE H (Site Conditions) also apply to the Supply Agreement.

E.3 This Supply Agreement

E.3.1 Preconditions

As a precondition to entering into this Supply Agreement, You represent to Us, warrant and will continue to warrant throughout the Hire Period that:

(a) You have the necessary title, interest and/or rights in the Hired Equipment to Supply it to Us;

(b) You have adequate insurance policies to cover the Hired Equipment which comply with clause B.5.1.5;

(c) all Hired Equipment is:

- (i) fit for its Intended Purpose and suitable for its intended use;
- (ii) in good repair and proper and safe working order and free from any Defects;
- (iii) is registered and licensed for operation and complies with all relevant Laws;
- (iv) is free from any charges, liens or encumbrances which would affect the provision of the Supply;
- (v) has been and will continue to be serviced and maintained in accordance with the Manufacturer's specifications and the Manufacturer's Operating Manual;
- (vi) is properly cleaned and (when provided at delivery) free of all soil and vegetation; and
- (vii) complies with any technical specifications provided by the Hirer;

(d) If the Hired Equipment requires an operator to be positioned upon or in the machine, You must ensure that it is fitted with appropriate safety devices as required by the Hirer, any Legislative Requirements and any relevant Australian Standards;

(e) if you are providing the Hired Equipment on a Wet Hire basis, Your Personnel are suitably qualified and trained to operate Hired Equipment and formally inducted to work at the Site in accordance with clause H.2(a).

(f) You will do all things necessary and incidental for the proper performance of Your obligations under this Agreement;

(g) all information and advice You provide Us in relation to the Hired Equipment or this Agreement will be true and correct in every respect, and not misleading or deceptive; and

(h) You will promptly disclose all information that may reasonably be material in relation to the Hired Equipment or the Supply Agreement.

E.3.2 Reliance

You acknowledge and agree that We enter into this Supply Agreement in reliance on the representations and warranties You have made and provided (including the representations and warranties in clause E.3.1) and otherwise.

E.4 Obligations

E.4.1 Your Obligations

E.4.1.1 General Obligations

(a) You agree to hire / lease the Hired Equipment to Us for the duration set out in the Contract Documents. Unless We agree otherwise in writing, You must:

- (i) perform all maintenance on Hired Equipment at Your own cost and risk to ensure it is in good operating condition at all times; and
- (ii) conduct or supervise any commissioning of the Hired Equipment to Our satisfaction.

(b) Subject to clause E.4.2.2 You are responsible for Hired Equipment regardless of where the Hired Equipment is located.

E.4.1.2 Repairs

If any of the Hired Equipment is damaged during the Hire Period:

(a) Subject to clauses E.4.2.2(c) & E.4.2.2(e), You must, at Our election, either repair the Hired Equipment or provide suitable replacement Equipment at Your own cost, as soon as possible (and in any event no later than two (2) Business Days) after being notified by Us under clause E.4.2.2(d);

(b) no Hire Rates will be payable for the period that the Hired Equipment is unable to be used by Us; and

(c) if the Hired Equipment is to be removed from the Site for repairs, You will be solely responsible for the necessary transport and costs.

(d) If You fail to comply with Your obligations under clause E.4.1.2(a) within the time required or if emergency repairs are required to protect the Hired Equipment, any person or property:

  (i) We may elect to repair the Hired Equipment or hire replacement Equipment; and

  (ii) all costs and expenses We incur in respect of repairing the Hired Equipment or hiring replacement Equipment will be a debt due and payable by You to Us on demand.

(e) You must produce on Our demand appropriate documentation to confirm that the Hired Equipment has been inspected within the past 12 months by a competent person and is in a safe, serviceable condition, and complies with all relevant Legislative Requirements and all relevant Australian Standards.

E.4.1.3 Wet Hire

(a) This clause E.4.1.3 only applies to the extent that this Supply Agreement provides for Wet Hire.

(b) The Operators You supply must:

  (i) be notified in writing to Us not less than 7 days prior to mobilisation of the Operators to Site;

  (ii) be acceptable to Us in our absolute discretion;

  (iii) be paid by You in accordance with all Legislative Requirements.

  (iv) be experienced, competent and fit to operate the Equipment;

  (v) hold the necessary certificates or licences of competency;

  (vi) be provided with the necessary safety equipment to attend the Site;

  (vii) receive adequate training to ensure that the Operators operate the Equipment in a manner that minimises the risk to their own health and safety and the health and safety of others;

  (viii) abide by and fully comply with all relevant occupational health and safety procedures as required by Us including not being affected by drugs or alcohol;

  (ix) submit to, medical, drug and alcohol tests as and when directed by Us.

  (x) not undertake any tasks unless all the requirements which are relevant to such tasks have been met;

  (xi) exercise reasonable and necessary precautions which are appropriate to the nature of the work to be performed and the conditions under which the work is to be carried out;

  (xii) fully comply with all relevant Legislative Requirements, including in relation to health, safety and fatigue management.

(c) Replacement of Operators

  (i) If any Operator is not acceptable to Us, for any reason, You must replace them with a suitably qualified replacement at Your own expense.

  (ii) You must not replace any Operator without Our prior written consent.

  (iii) You acknowledges and agree that in the event that an Operator is unavailable at the start of a shift for any reason, We may procure an alternative operator to operate the relevant Hired Equipment until the Operator becomes available to recommence the operation of the relevant Hired Equipment. In such cases You have no Entitlement to payment or otherwise in respect of the Operator for the shifts (or part thereof) for which the Operator was unavailable.

(d) The Operators are not employed by Us and You are responsible for ensuring full remuneration and entitlements are paid to Operators, who will remain Your employees and will return to You at the end of the Hire Period.

E.4.2 Our Obligations

E.4.2.1 Specifications

(a) We will specify, in the Purchase Order of other Contract Document:
  (i) the Hired Equipment We are asking you to Supply;
  (ii) whether we require the Hired Equipment on a Wet Hire or Dry Hire basis;
  (iii) the Hire Start Date and the Hire End Date; and
  (iv) the Delivery Place.

(b) Any Hire End Date specified under clause E.4.3(a)(iii) is an estimate only, which may be varied in respect of any item of Hired Equipment, by written agreement between us.

E.4.2.2 Hire Period

During the Hire Period, We will:

(a) keep the Equipment clean and in good working order;
(b) operate the Equipment safely and in accordance with all Legislative Requirements;
(c) perform maintenance and servicing, if specified in the Contract Documents or otherwise agreed between the parties, in accordance with the Manufacturer's Operating Manual;
(d) promptly notify You of any Defect in, damage to, or breakdown of, the Hired Equipment; and
(e) if the cause of the breakdown is a direct result of Our negligence, We will be responsible for the reasonably necessary repairs to the Equipment.

E.4.2.3 Wet Hire

(a) This clause E.4.2.3 only applies to the extent that this Supply Agreement provides for Wet Hire.
(b) We shall:
  (i) provide Operators with Site induction training;
  (ii) make all reasonable attempts to ensure that all work carried out by the Operators complies with all occupational health and safety requirements in accordance with the laws of the relevant jurisdiction;
  (iii) ensure that systems of work and the working environment are safe; and
  (iv) provide such information, instruction, training and supervision as may be necessary to ensure that the work performed by the Operators is performed without hazards or risks to health and safety.
(c) Notwithstanding clauses E.4.1.3(d)) We may direct the Operators:
  (i) in the performance of the work to be performed in utilising the Hired Equipment; and
  (ii) with respect to occupational health and safety matters arising under the Supply Agreement, Legislative Requirements, Site safety plans or requirements or Our safety plans or policies.

E.4.2.4 Return Condition

At the Hire End Date, We will return the Equipment in a state consistent with Us having complied with Our obligations under this Supply Agreement (with reference to the condition of the Hired Equipment on the Hire Start Date and with allowance for fair wear and tear).

E.4.2.5 Deductibles

We are responsible to pay the relevant deductible for the insurance policies required under clauses B.5.1.4 and B.5.1.5, for loss or damage to the Hired Equipment solely caused by Us or Our Personnel, from the later of:

(a) its delivery to the Site; or
(b) its commissioning,

until the Hired Equipment is returned to You at its relevant return point nominated in the Purchase Order or Scope of Work, excluding fair, wear and tear, and subject to Your warranties under clause E.3.

E.4.3 Delivery & Collection

E.4.3.1 Delivery

Unless otherwise provided in the Supply Agreement:

(a) You must:

(i) deliver the Hired Equipment to the Delivery Place by the Hire Start Date; and
(ii) collect the Hired Equipment from the Delivery Place on the Hire End Date.

(b) Unless otherwise provided in the Hire Schedule, You are responsible for providing or arranging transportation, delivery, loading and unloading of the Hired Equipment to and from the Delivery Place.

(c) Delivery will be deemed to have occurred when:
(i) the Hired Equipment has been delivered to the Delivery Place;
(ii) the Hired Equipment is fully operational; and
(iii) We have accepted or approved the Hired Equipment.

(d) Upon delivery of the Hired Equipment at the Delivery Place, You and We will jointly inspect the Hired Equipment and record the details of the inspection.

(e) If the Delivery Place is Your premises, You must:
(i) make the Hired Equipment available for collection by We at the date and time requested by We; and
(ii) ensure that the Hired Equipment is appropriately packed and fitted with all lifting and handling devices required to safely lift and handle the Hired Equipment during transit.

(f) Should the Hired Equipment not be delivered to Us by the time specified, We shall be entitled to claim damages.

E.4.3.2 Collection

At the Hire End Date, We will make the Hired Equipment available to You for collection at the Delivery Place.

E.5 Risk & Title

(a) Risk in the Hired Equipment will remain with You until the Hired Equipment is Delivered in accordance with clause E.4.3.1(a)(i) to the Delivery Place and accepted by Us following inspection of the Hired Equipment.

(b) If We determine that the Hired Equipment is Defective or otherwise not in accordance with this Contract, We may reject the Hired Equipment and (at Our sole discretion) direct You to promptly rectify the Defect or replace the rejected Hired Equipment, at Your cost. You must comply with such direction and any cost incurred by Us in connection with any such replacement or rectification will be a debt due from You to Us.

(c) You (or such other person as may hold title to the Hired Equipment) will retain title to it during the Hire Period.

(d) You will provide Us with exclusive use of the Hired Equipment during the Hire Period.

E.6 Personal Properties Securities Act

In this clause E.6, terms used that have a defined meaning in the PPSA have the same meaning as in the PPSA.

(a) We acknowledges that You have, or are entitled to have, a Security Interest in the Hired Equipment.

(b) You may register a security interest on the PPSA register which is registered as commercial property for collateral type, other goods as collateral class and a detailed description of the Works.

(c) If section 95 or chapter 4 of the PPSA would otherwise apply to the enforcement of any security interests then those provisions are excluded, to the maximum extent permitted by Law.

(d) We will take such reasonable steps as You require to perfect any security interest.

(e) You will disclose information as described in section 275(1) unless section 275(7) of the PPSA applies.

E.7 Fuel Tax Credits

In this clause E.7, terms used that have a defined meaning in the FTA have the same meaning as in the FTA.

(a) If We or the Principal provide fuel to You free of charge for Wet Hire of Equipment under this Contract:
(i) You shall maintain detailed records of all fuel usage and provide a monthly report identifying the amount and type of fuel used, the activities for and the equipment in which the fuel is used.
(ii) You shall only use the fuel in the provision of the Supply. We may recover any unauthorised use of fuel.
(iii) Property in the fuel remains with Us and does not pass to You. You do not acquire, manufacture or import the fuel for the purposes of the FTA.
(iv) You shall deliver back any unused quantity of fuel at the end of the Hire Period or upon Our request.
(v) We (or the Principal, as applicable) retain all rights to fuel tax credits on fuel used by You in the performance of the Supply Agreement.

MODULE F SUPPLY OF CONSULTANCY SERVICES

F.1 Scope of this Module

This Module shall apply to any Supply Agreement which includes the supply of Services as a Consultant, including Professional Services and Design Services.

F.2 Your Obligations

F.2.1 Standard of Care

You must perform the Services:

(a) with the degree of professional skill, care, diligence and prudence to be expected of a Relevant Consultant;
(b) in accordance with suitable and appropriate methods and Good Industry Practice;
(c) in compliance with any relevant Australian or International Standards;
(d) in compliance with any applicable Law; and
(e) in a manner that could reasonably be expected to enable Us to discharge Our duties under any applicable Law.

F.2.2 Obligations in Relation to the Supply

You must:

(a) provide the Services and Deliverables included in the Supply;
(b) provide any incidental Services or Deliverables which are reasonably required for the proper provision of the Supply.
(c) ensure that the Services are performed and any relevant Deliverables are provided no later than the Delivery Date or a date agreed in writing with Us;
(d) ensure that the Supply meets its intended purpose, is complete and is provided in a manner that achieves all standards included or referred to in this Agreement and any relevant Australian or International Standards;
(e) seek to identify, manage and mitigate risks within Your control;
(f) conduct Yourself and undertake Your obligations under this Agreement in a spirit of cooperation and good faith;
(g) comply with all applicable laws and hold all necessary authorisations, permits or licences required in connection with the provision of the Supply;
(h) comply with all of Our reasonable and lawful instructions or directions relating to the Supply.

F.2.3 General obligations

You must:

(a) ensure that at all times You maintain and allocate adequate resources to fully discharge all Your obligations under this Agreement (including adequately skilled Personnel, tools, working capital, computer and other systems, communication facilities and administrative support);
(b) make all reasonable efforts not to interfere with Our business and Our operations when providing the Services and otherwise performing Your obligations under this Agreement;
(c) promptly notify Us if any of the Services or the provision of them conflicts with any applicable law or any authorisation, permit or licence held by You in connection with the provision of the Services;
(d) when providing any Services on Our premises and/or Site(s) comply with any occupational health and safety policy and any of Our other workplace behaviour policies, which We make available to You from time to time; and
(e) ensure that any of Your Personnel who participate in or contribute to the provision of the Supply are familiar with all of Our applicable procedures and policies.

F.3 Statutory Limitation of Liability Scheme

You must inform us if you are covered by any statutory scheme which may operate to limit your liability for loss or damage arising from or in connection with your professional negligence or otherwise from or in connection with any professional services which You may provide to Us.

MODULE G SUPPLY OF DESIGN SERVICES

G.1 Scope of this Module

This Module shall apply to any Supply Agreement which includes the provision of any Design.

G.2 Your Obligations

G.2.1 General Obligations

(a) If a preliminary Design is included as part of the Contract Documents, you must examine it and acknowledge and warrant that it is suitable, appropriate and adequate as a basis for the development of the Design.

(b) You must develop the Design and submit the Design required by Us for Our review;

(c) You will submit any Design Deliverables and documentation to Us progressively and, when We reasonably direct, so as to allow Us reasonable time for review.

(d) You will not commence any Services or Works which are dependent on the Design or on any part of the Design unless the Design or the relevant part of the Design has been submitted for review and returned to You without amendment.

(e) You will ensure that any and all Client-Supplied Items listed in this Agreement are incorporated into the Design.

(f) You must give careful, prudent and comprehensive consideration to the SHEQ implications of the Design and the methods of construction and risks to construction workers and third parties and comply with all safety in design requirements.

G.2.2 Construction Specifications

(a) If We have given you any Construction Specifications for the Design, then the Design must be capable of being constructed in accordance with such Construction Specifications.

(b) If the initial design is not capable of being constructed in accordance with the Construction Specifications, You shall at Your own cost change the Design so that it is capable of being constructed in accordance with the Construction Specifications.

(c) If in your professional opinion, You consider that it is impossible to produce a Design which is capable of being constructed in accordance with the Construction Specifications, you may submit a Variation Proposal to change the Construction Specifications pursuant to clause B.4.1.3 which We will consider pursuant to clause B.4.1.3.

G.2.3 Design Coordination

(a) You will be responsible for design co-ordination unless We advise You otherwise.

(b) You will co-ordinate the Design with any relevant design by others in all technical areas to ensure there is no conflict of any kind between the different design services.

G.2.4 Safety in Design

G.2.4.1 No Risk

To the extent of Your responsibility, the Design must not pose any risk to the health and safety of persons who:

(a) construct the Designed Works;

(b) use the Designed Works for the purposes for which they were designed;

(c) carry out any reasonably foreseeable activity in relation to the manufacture, assembly, use, proper demolition or disposal of the Designed Works; and

(d) may be at, or in the vicinity of the Designed Works or may be exposed to the Designed Works or whose health and safety may be affected by an activity related to the Designed Works.

G.2.4.2 Safety in Design Report

You will provide US with a written report outlining potential hazards unique to the Design that may pose a risk to people using the Designed Works as a workplace, including the use of the Designed Works for the purpose for which they were designed, or when carrying out any activity in relation to the Designed Works such as construction, maintenance or demolition.

G.2.5 Other Design Requirements

Any Design and any associated Deliverables and other documentations must:

(a) comply with all the requirements of this Agreement

(b) be submitted in writing, in clear written English;

(c) consistent with Our formatting and quantity requirements;

(d) unless expressly provided otherwise, be duly endorsed with the signatures of a professional engineer or architect who has the necessary authorisation under the law of the relevant jurisdiction to endorse such design.

(e) specify materials and components free from established environmental pollutants which may create a hazard;

(f) incorporate SHEQ considerations in relation to the construction and maintenance of the Designed Works;

(g) identify any SHEQ risks in the Design or which may arise in the construction of the Designed Works;

(h) be free from any omissions, inconsistencies, discrepancies, ambiguities, errors, inadequacies, contradictions or deficiencies; and

(i) be fit for their Intended Purpose.

G.3 Design Review

G.3.1 Our Right to Review

We may:

(a) review any Design submitted (or resubmitted) by You; and

(b) if We consider that any Design does not comply with the Contract or is not fit for its Intended Purpose, reject that Design by written notice to You not later than fifteen (15) Business Days after We receive it

(c) if We reject any Design because the Design does not comply with the Contract or is not fit for its Intended Purpose in accordance with clause G.3(b)(ii), You must resubmit the Design in accordance with clauses G.2.1(i) and G.2.2 until We do not reject the Design;

G.3.2 Consequences of Review

(a) You must not proceed with any further work on the basis of any Design unless the time stipulated in clause G.3(b) has expired and We have not rejected the Design in accordance with that clause;

(b) No review of, comment on or failure to comment on, consent to, approval of or rejection of the Design, or failure to review the Design properly or at all, shall relieve You of Your obligations under this Agreement and You acknowledge that We are relying on Your professional skill and judgement in undertaking the Design.

  (i) does not relieve You of Your obligations under this Agreement;

  (ii) does not limit any right of We under this Agreement;

  (iii) will not be considered as a representation or an acknowledgment by We that the relevant design complies with this Agreement; or

  (iv) will not entitle You to make a Claim under this Agreement.

(c) If a defect in the Design is only discovered after the Designed Works are constructed or completed, We may claim the costs of rectification (including costs of dismantling and reinstatement works) together with any other Loss we may have suffered as a result of the defect in the Design.

G.4 Design and Construct

G.4.1 Construction in Accordance with Design

If the Supply includes Design and Construction, You must construct the Works in accordance with any Design submitted for review in accordance with clause G.3.1(b) which has not been rejected after the time stipulated in that clause has passed.

G.4.2 Future Design and Construct Contract

You acknowledge that We may, in future, offer you the opportunity to Construct works on the basis of the Design and agree that, if you accept Our offer, the Supply may be brought under the terms of a future Design and Construct contract and You will execute such documents and take such other actions to give effect to this as We or the Principal, acting reasonably, may direct.

MODULE H SITE CONDITIONS

H.1 Scope of this Module

This Module shall apply to any Supply Agreement under which You are required to attend one or more of Our Sites.

H.2 Preconditions to Site Access

Prior to starting work on Site or at any time at Our request, You and Your Personnel must, at Your own cost:

(a) attend and complete all SHEQ inductions, onboarding and training courses required by Us;

(b) if required by this Agreement or requested by Us, submit all applicable Deliverables, for Our approval; and

(c) if requested by Us, submit the Deliverables through the relevant Contractor Management System.

H.3 Limited licence to access Our Site

(a) We grant You a revocable, non-exclusive, non-assignable licence to access the Site(s) to the extent necessary for You to perform Your obligations under this Agreement.

(b) Subject to clause H.2 and to the maximum extent permitted by Law, You and Your Personnel may enter the Site and provide the Supply under this Agreement at Your and Your Personnel's own risk.

(c) You must inform Your Personnel of all applicable Site access requirements, policies, procedures, and Site rules pertaining to the Site at which the Supply is to be performed, delivered and/or installed. This includes, but is not limited to, attending site inductions, adhering to security processes, undergoing medical assessments, undergoing fitness for work testing on Site, and safety, health, environment, and quality requirements.

(d) We are not required to provide You with exclusive possession of the Site. You agree to coordinate with We and its other contractors at the Site in order to provide the Supply without causing delay or disruption to the work being performed by We or its other contractors at the Site.

(e) If You believe that We have not provided sufficient and safe access to those parts of the Site required for You to provide the Supply, You must immediately notify We in writing.

(f) Without limiting the warranties under this Agreement, You acknowledge and agree that the Purchase Price includes adequate allowance to meet the site access and coordination requirements under this clause 9.

H.4 Site Obligations

You must:

(a) not interfere with Our activities or the activities of anyone else at the Site;

(b) not damage or contaminate the environment at the Site; and

(c) at all times keep the Site clean, tidy, and free of refuse.

H.5 Protection of works

Unless otherwise provided in the Purchase Order, You are responsible to identify and protect all existing infrastructure and utilities at, and in the vicinity of, the Site(s). Without limiting any other remedy We may have, You indemnify Us for any damage, claim or Loss arising from or in connection with the presence on the Site of You or Your Personnel.

H.6 Supply of Equipment

This clause H.6 applies if this Agreement requires You to use or supply Equipment on one or more of Our Sites.

(a) Subject to MODULE E (Hired Equipment), You agree to supply the Equipment at Your own risk and expense.

(b) You must:

  (i) comply with all Laws applicable to Your Equipment.

  (ii) maintain such Equipment on Site in proper and safe working order and with all necessary safety equipment fitted throughout the Term.

  (iii) ensure that Your Personnel are suitably qualified and competent to operate the Equipment

(c) If We reasonably believe that Your Equipment is unsafe or unsuitable for this Agreement, We may reject the Equipment. If We reject the Equipment under this clause, then You must promptly repair or replace the Equipment to Our reasonable satisfaction.

MODULE I SUBCONTRACTING

I.1 Scope of this Module

This Module shall apply to any Supply Agreement under which We are subcontracting to You any part of our contractual obligations to a Client who, in such case, shall be the Principal.

I.2 Your Obligations

I.2.1 Policies and Procedures

You acknowledge that the Principal may issue its own policies and procedures which shall apply to the Supply and You agree to be bound by and observe them.

I.2.2 Communication

(a) You shall not communicate directly with the Principal without obtaining our prior consent.

(b) You shall not meet with the Principal without obtaining Our prior consent and providing Us with an opportunity to attend any such meeting.

(c) You shall not provide any Supply or any Deliverables directly to the Principal without our prior consent.

I.2.3 Warranties

You covenant, warrant and agree with and for the benefit of Us, the Principal, any other end user, and any of our respective Related Bodies Corporate that:

(a) from the Delivery Date, the Supply will satisfy the requirements and specifications of this Supply Agreement;

(b) You shall perform all of your obligations under or arising out of this Agreement in accordance with the terms of this Agreement;

(c) in respect of Your performance of this Supply Agreement, You have exercised the standard of skill, care, diligence and prudence which is expected of a Relevant Contractor or Relevant Consultant, as the case may be; and

(d) the Principal, its Related Bodies Corporate and any other end user may assign the benefits and rights accrued under this clause 4(b) and (c).

I.2.4 Collateral Deed

If requested by Us, You must sign or execute a warranty deed or deed poll, in a form provided by Us, in favour of the Principal and return it to Us fully executed with five (5) Business Days of the request. Provision of a signed deed of warranty is a precondition to any further payment and a failure to provide the signed or executed deed of warranty is a material breach of this Agreement, permitting immediate termination of this Agreement by Us.

I.2.5 Novation

If requested by Us, You must sign or execute a deed of novation, in a form provided by Us, novating this Supply Agreement to the Principal or such other party as We nominate, and, subject to conducting due diligence, return it to Us fully executed with five (5) Business Days of the request.

I.2.6 Contracts for Further Works

You acknowledge that We may, in future, offer you the opportunity to provide further Supply for the Principal. You acknowledge that the Principal may request that the current Supply be brought under the terms of a future contract as prior works, early works or otherwise. You agree that, if you accept such an opportunity to provide further Supply, You will agree to the Principal's request and You will execute such documents and take such other actions to give effect to this as We or the Principal, acting reasonably, may direct.

I.3 Our Obligations

(a) We shall provide you with any of the Principal's policies and procedures applicable to the Supply and any Principal-supplied information relevant to the Supply and communicate with the Principal on your behalf.

(b) We shall make you aware of any provisions in our contract with the Principal of which you need to be aware in order to properly provide the Supply.