



TERMS & CONDITIONS

Purchase Order

1. DEFINITIONS:

"The Company" shall mean Norm Engineering Pty Ltd, its agents or employees.

"The Buyer" shall mean the purchaser of the Goods who is party to the Conditions.

The Goods means any goods, items or products which are sold by the Company to the Buyer.

"GST" means any goods and services tax imposed under the Goods & Services Act 1985 (NZ) or 1999 (AU).

"These Conditions" means these Standard Conditions of Quotation.

"Contract" means any agreement with the Buyer for the provision of Goods.

Agreed Price means the amount(s) which Norm Engineering has agreed in writing is payable for the Work;

Australian Consumer Law means the Australian Consumer Law set out in schedule 2 of the Competition and Consumer Act 2010 (Cth);

Authorisation means an approval, consent, declaration, direction, exemption, notarisation, licence, permit, certificate, waiver or other authorisation, however described, required by any Law and includes any renewal or amendment;

Authority means any:

- (a) government, government department or government agency;
- (b) governmental, semi-governmental or judicial person including a statutory corporation; or
- (c) other person (whether autonomous or not) charged with the administration of a Law;

Consumer has the meaning given in section 3 of the Australian Consumer Law. The Purchaser will be acquiring goods/services as a Consumer if:

- (a) the amount paid or payable for the goods does not exceed \$40,000; or
- (b) the goods are of a kind ordinarily acquired for personal domestic or household use or consumption;

Notwithstanding the above, the Purchaser will not be acquiring goods and/or services as a Consumer if the Purchaser acquires the goods and/or services:

- (a) for the purposes of re-supply; or
- (b) for the purposes of using them up or transforming them, in trade or commerce
 - (i) in the course of a process of production or manufacture; or
 - (ii) in the course of repairing or treating other goods or fixtures on land;

Business Day means Monday through Friday (inclusive) excluding gazetted public holidays in the State or Territory where the Manufacturing facility is located;

Claim means any demand, claim, action or legal proceeding of any nature including any claim for: an increase to the Agreed Price; the payment of any money (including damages); an extension of time; or a reduction of the Supplier's obligations or Norm Engineering' rights:

- (a) arising out of or in relation to the Agreement (including any direction by Norm Engineering under it);
- (b) arising out of or in relation to the Work under the Agreement; or
- (c) arising otherwise at Law including:
 - (i) under statute or in equity;
 - (ii) in tort for negligence or otherwise (including negligent misrepresentation); and
 - (iii) for restitution (as a result of unjust enrichment or otherwise);

Conditions means these conditions of purchase;

Confidential Information means all information regardless of form which is disclosed directly or indirectly by the Disclosing Party to the Receiving Party in connection with the Agreement which is treated or designated as confidential by the Disclosing Party or which the Receiving Party ought to know is confidential and includes without limitation: (a) trade and business secrets; (b) information concerning customers, suppliers and Related Bodies Corporate; (c) product and pricing information; (d) samples, models and prototypes; (e) Personal Information (including information about Norm Engineering' Personnel); and (f) all information, data and knowledge of a commercial, operational, marketing, business, technical or financial nature relating to the affairs of the Disclosing Party or their Related Bodies Corporate;

Defect means an error or defect in the Equipment due to faulty material or workmanship for which Norm Engineering is responsible;

Delivery Schedule means the schedule (if any) agreed between the Parties for the execution of the Work showing the dates by which, or the times within which, any milestones, stages or portions of the Work are to be carried out or completed under the Agreement;

Equipment means all goods or other materials to be supplied by Norm Engineering under the Contract;

Force Majeure Event means any event beyond the reasonable control of a party including the following events:

- (a) acts of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, revolution, insurrection, military or usurped power or terrorism;

- (b) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- (c) contamination caused by any hazardous or toxic materials or waste (including asbestos) existing on the Delivery Site prior to the date of the Contract or brought onto the Delivery Site after this date by or on behalf of the Purchaser (other than contamination caused by Norm Engineering or Norm Engineering' Personnel);
- (d) shipping congestion at port of loading/unloading, blockades, embargos, shortage of transport, import restrictions or currency restrictions;
- (e) act (or failure to act) of Authorities (unless such act is the requirement of Authorities to either party to comply with any mandatory Law in force at the time of signature of the Contract), non-approval of export licence for the work under the Contract, or epidemic;
- (f) sabotage, strikes, lockouts, go-slow or any other industrial dispute or disturbance; and
- (g) Acts of God including all severe weather conditions, natural disasters, earthquakes, volcanic activity, hurricanes, cyclones, floods, fires, tsunamis and lightning strikes;

Latent Defect means any Defect which could not reasonably have been detected prior to the expiry of the Defects Liability Period;

Loss means: (a) any cost, expense, liability, loss or damage; and (b) in relation to a Claim, Loss includes amounts payable on the Claim and (whether or not the Claim is successful), legal costs and disbursements on a full indemnity basis;

Party means Norm Engineering or the Supplier and **"Parties"** means both of them; **Personnel** means the employees, officers, agents, consultants, other contractors and subcontractors of a Party;

Personal Information has the meaning given in the *Privacy Act 1988* (Cth) ("**Privacy Act**");

Policies means Norm Engineering' written guidelines, policies, principles, procedures, requirements and rules including Norm Engineering' or third party customer induction policies and Site policies which will be presented or made available to the Supplier upon written request to Norm Engineering;

Products means the goods and other associated materials (including Documents) supplied or to be supplied by the Supplier under the Agreement including product which is the output of any Services to be provided by the Supplier;

Purchase Order means the document titled 'Purchase Order' in or to which these Conditions are referred or attached and which is deemed to incorporate the terms of these Conditions;

"PPSA" means the Personal Property Securities Act 1999 (NZ) & 2009 (AU)

Serial Defect means a Defect that occurs in at least 20% of Products supplied by the Supplier if the cause of such Defect is the same or similar;

Services means the services provided or to be provided by the Supplier under the Agreement;

Work means the supply of the Products and Services under the Agreement.

2. Formation of Contract

- 2.1. Acceptance of the Purchase Order shall be deemed to be an acceptance by the Supplier of these Conditions to the exclusion of any other terms supplied by or referred to by the Supplier (including in any acknowledgement of receipt or confirmation of Purchase Order), unless and to the extent that Norm Engineering expressly agrees in writing to the incorporation of such other terms or any variation of these Conditions.
- 2.2. If the Supplier commences Work the Supplier shall be deemed to have accepted the Purchase Order and these Conditions notwithstanding any failure to provide written acceptance.
- 2.3. Upon acceptance of the Purchase Order, the Agreement commences and the Supplier will be bound to provide the ordered Products and Services in accordance with the requirements of the Agreement. The Agreement shall continue in force until Final Completion (unless terminated earlier in accordance with the Agreement).
- 2.4. The Supplier shall inspect each Purchase Order and all associated documents submitted by Norm Engineering to the Supplier and shall immediately request clarification from Norm Engineering if anything is unclear or if any information appears to be ambiguous, inadequate or missing.

3. Supplier's General Obligations and Warranties

Without limiting any other obligation under the Agreement, the Supplier:

- 3.1. shall ensure that the Products and Services comply with and are completed in accordance with all requirements set out or referred to in the Agreement (including all specifications);
- 3.2. shall be responsible for any discrepancies, errors or omissions in Documents provided to Norm Engineering by the Supplier and shall carefully check information of any kind provided to it by Norm Engineering;
- 3.3. shall comply with all Privacy Laws in relation to Personal Information, whether or not the Supplier is an organisation bound by the Privacy Act and if it is a small business under the Privacy Act, then upon reasonable request by Norm Engineering, the Supplier agrees to choose to be treated as an organisation bound by the Privacy Act in accordance with Section 6EA of that Act during the term of the Agreement;

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- 3.4. shall ensure that packaging for Products is suitable, minimized and environmentally compatible;
 - 3.5. shall comply with all packaging, marking and labelling requirements of Norm Engineering that are communicated to the Supplier, (whereby the Supplier acknowledges that changes to the packaging, marketing and labelling requirements are made by Norm Engineering as required by law or to meet Norm Engineering' reasonable requirements) such as to prevent Products being damaged in transit, customer requirements or to minimise harm to the environment.
 - 3.6. shall ensure that it and its Personnel comply with all Laws including:
 - (a) any applicable anti-corruption and anti-bribery Laws including Chapter 4, Division 70 (Bribery of foreign public officials) of the *Criminal Code* (Cth), anti-money laundering Laws and other criminal Laws;
 - (b) taxation Laws
 - (c) Laws relating to employees including those governing freedom of association; employment conditions, remuneration and entitlements; minimum working age; equal opportunity and discrimination;
 - (d) competition Laws including the *Competition and Consumer Act 2010* (Cth);
 - (e) Laws governing occupational health and safety and environmental protection and prohibited imports (including asbestos); and
 - (f) road and transport Laws (including Chain of Responsibility Legislation);
 - 3.7. acknowledges that the Building Code may apply to the Agreement and that if so, by agreeing to undertake the Work, it is taken to have read and agreed to comply with the Building Code and to be able to demonstrate compliance;
 - 3.8. must at all times co-operate with Norm Engineering and Norm Engineering' Personnel (including Norm Engineering' other contractors and subcontractors) in order to allow, and not to disrupt, the proper provision of any goods and services whether internally by Norm Engineering or by such Norm Engineering' Personnel;
 - 3.9. shall ensure that if the Supplier is required to provide Norm Engineering with Documents under the Agreement, Norm Engineering is given ownership of such Documents or Norm Engineering is granted a perpetual, transferable and royalty-free licence to use, duplicate and alter the Documents (and associated technical data) to meet Norm Engineering' requirements;
 - 3.10. shall ensure that it has not relied upon information provided by or on behalf of Norm Engineering without independently verifying that information and satisfying itself of the accuracy, adequacy and correctness of that information;
 - 3.11. shall ensure that in supplying the Work, the Supplier exercises the degree of skill, diligence and prudence which would reasonably be expected from a skilled and experienced Supplier engaged in the same type of work under the same or similar circumstances;
 - 3.12. shall not change the Facilities unless agreed in writing by Norm Engineering acting reasonably;
 - 3.13. if requested to do so, the Supplier shall:
 - (a) support Norm Engineering' e-business strategies, including electronic procurement activities (e-sourcing, e.g. auctions), data management, performance monitoring, electronic order processing (e-ordering, classic EDI or web-based EDI) and other process optimization measures (e.g. e-RfQ) and perform the registration and qualification process, keep its registration details up to date and remain so qualified while it has obligations under the Agreement;
 - (b) warrants, without limiting any other provisions of the Agreement (or otherwise), that:
 - (a) all Products will:
 - (i) be new, of merchantable quality, and be fit for their intended purpose;
 - (ii) provide the full functionality and performance claimed for the Products;
 - (iii) be free from Defects;
 - (iv) comply with all requirements of the Agreement including the specifications and with generally accepted engineering, manufacturing and industry standards;
 - (v) not contain any type of asbestos so that all Products have nil asbestos content and the Supplier shall provide evidence to Norm Engineering of:
 - (1) sampling and testing for asbestos content (where relevant) before shipping the goods to Australia); and
 - (2) regular risk assessment and quality assurance processes, that take into account what raw materials are used in the manufacture of the goods; where manufacturers outside Australia source their raw materials; and identifying and subsequently minimising asbestos-risk activities at the point of manufacture; and
 - (vi) in the case of software and hardware, when in operation, calculate dates correctly for the period of the useful life of the Products;
 - (b) all Services will be provided with due skill and care to the standard reasonably to be expected of a person performing the business of the Supplier in accordance with clause 3.11;
 - (c) the Supplier has examined Norm Engineering' requirements under the Agreement, and any other information made available in writing by Norm Engineering to the Supplier and has considered and evaluated all other information and matters relevant to the risks, contingencies and other circumstances relating to the Work (including the Site and all requirements relevant to the Work) and is satisfied that the Agreed Price includes due allowance for all such matters and things necessary for the proper performance and completion of the Work and for fulfilling all of the Supplier's obligations under the Agreement; and
 - (d) the Supplier has fully checked and verified the requirements of the Agreement and will not request any adjustment to the Agreed Price for the Work or any extension of time arising out of any errors, omissions, ambiguities or discrepancies in respect of the Agreement;
- 3.15. represents and warrants that it shall not either directly or indirectly provide to any officer, employee or agent of Norm Engineering any benefit which might reasonably be construed as an inducement for such person to show favour to the Supplier; and
- 3.16. shall ensure that at all times a representative is appointed by the Supplier who is authorised to represent and bind the Supplier in all matters relating to the Agreement ("**Supplier's Representative**"). The Supplier shall ensure that Norm Engineering' Representative is provided at all times with the current contact details for the Supplier's Representative. The Supplier shall not change the Supplier's Representative without giving prior written notice to Norm Engineering. All matters notified by Norm Engineering to the Supplier's Representative or otherwise within the knowledge of the Supplier's Representative will be deemed to have been notified to the Supplier and within the Supplier's knowledge. The Supplier's Representative shall promptly respond to requests and queries of Norm Engineering' Representative and shall meet and liaise with Norm Engineering' Representative at such times and intervals as deemed necessary by Norm Engineering.
- #### 4. Site & Access
- If the Agreement requires the Supplier to perform Work on Site:
- 4.1. the Supplier is responsible for inspecting the Site and surrounding areas where the Work will be performed and for ensuring that it is familiar with all Site conditions, including access, soil and subsoil conditions, asbestos and all other Site conditions relevant to the performance of the Work (including all applicable Laws) and for making all reasonable enquiries and investigations that may affect the cost and expense of executing the Work;
 - 4.2. the Supplier shall be given access to the Site at agreed times;
 - 4.3. the Supplier's Personnel shall attend all required Site induction sessions before commencement of Work on any Site and the Supplier shall comply with and shall ensure that when on Site, the Supplier's Personnel comply with all Policies and Laws applicable to the Site;
 - 4.4. unless otherwise agreed in writing the Supplier shall provide at its expense all facilities, constructional plant and other amenities as may be required for the performance of the Work at the Site; and
 - 4.5. the Supplier acknowledges and agrees that there may be other contractors on or around the Site and agrees that the Agreed Price includes all of the Supplier's costs and expenses associated with managing the Supplier's interface and co-ordination of the Works with the works of such other contractors.
- #### 5. Delivery
- 5.1. The Supplier shall deliver Products in accordance with the relevant Incoterms specified in the Agreement, or, if no Incoterms are so specified, without additional charge to Norm Engineering, to the Site for delivery stated in the Agreement by the stated Dates for Delivery. Norm Engineering may postpone delivery of Products and the Supplier shall comply with any such instruction. Unless the postponement was due to a Force Majeure Event or any act, default, negligence or omission of the Supplier or the Supplier's Personnel, the procedures set out at clause 11 apply to such postponement by Norm Engineering.
 - 5.2. Without limiting any other provision of the Agreement or any Law, the Supplier shall ensure that, in delivering the Products and when using vehicles, machinery and equipment in connection with the Work, the Supplier and its Personnel:
 - (a) comply with all mass, dimension and load restraint requirements for vehicles and the carriage of goods;
 - (b) comply with all driving hours, speed and traffic requirements;
 - (c) comply with all relevant requirements in relation to container weight declarations;
 - (d) manage all transport and journey documentation, including consignment notes, declarations, manifests and log books;
 - (e) provide Norm Engineering, upon request, with all information and documentation reasonably required by Norm Engineering (or a

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- relevant Authority) to monitor or audit compliance with this clause (including permitting inspections of transport and journey documentation and vehicles);
- (f) notify Norm Engineering upon becoming aware of any breach by the Supplier or its Personnel of this clause;
 - (g) be responsible for the safe transportation of the Products and any equipment necessary for performance of the Work to, from and on the Site in accordance with the Delivery Schedule;
 - (h) investigate the route for transport of the Products and be responsible for any civil works in relation to the roads that are necessary to ensure that its loads can be transported to meet the requirements of the Agreement;
 - (i) obtain any necessary permits relating to the movement of its loads to, from and on the Site;
 - (j) comply with all regulations regarding traffic, transit or access of labour, goods, equipment and materials, to, from and on the Site and must also comply with all Laws applicable to the use of existing public and private roads;
 - (k) develop a detailed traffic management and transportation plan for the Work, and produce a copy upon request to Norm Engineering;
 - (l) ensure that the Supplier and the Supplier's Personnel exercise due care in using the transport routes so as not to cause damage to any of the roads or bridges connecting with or on the route to, from and on the Site by any traffic of the Supplier or any of the Supplier's Personnel;
 - (m) continuously inform itself of the suitability of the planned transport route and take into account and plan for the relevant climatic conditions and their influence on the transport route; and
 - (n) at the Supplier's risk and expense verify that any vehicles, machinery and equipment made available by Norm Engineering for transportation fulfils the requirements for the Products being transported and exercise the same degree of care over such vehicles, machinery and equipment as if they were the Supplier's own.
- 5.3. The Supplier shall ensure that:
- (a) appropriate vehicles, machinery and equipment are available to transport the Products by the Date for Delivery and that such vehicles, machinery and equipment are in good working and maintained condition; comply with all Laws; have been inspected and passed as ready and safe for operation in accordance with such Laws; are suitable for the Work and meet all requirements of the Agreement; are equipped with sufficient means for securing and protecting the Products and are equipped with fully operational communication systems;
 - (b) operators and drivers are available at all times necessary to operate vehicles, machinery and equipment in order to support the proper sequence, performance and completion of the Work; and
 - (c) all operators and drivers are capable, experienced, sufficiently qualified, certified and suitable to perform the Work in accordance with the Law and are trained in occupational health and safety and instructed to stop Work whenever they consider it likely that the Work does not comply with occupational health, safety or environmental regulations and to inform Norm Engineering accordingly.
- 5.4. The Supplier shall bear the risk of delays including waiting time during transportation unless such delay is caused by Norm Engineering.
- 5.5. The Supplier shall ensure that prior to the delivery or use of any dangerous goods or hazardous substance (together known as "**Hazardous Substance**"), the Supplier:
- (a) applies appropriate labelling;
 - (b) provides Norm Engineering with a copy of the current Material Safety Data Sheet for such Hazardous Substance that complies with the National Code of Practice for the Preparation of Material Safety Data Sheets; and
 - (c) provides Norm Engineering with a completed risk assessment, if Services include the use of such Hazardous Substances.
- 5.6. Unless otherwise agreed between the Parties in writing the Supplier shall ensure that all Products are adequately insured, packaged and protected, loaded and transported to ensure safe delivery to the Site by the Date for Delivery including, where carriage is by sea, ensuring that non-containerised Products are stowed under deck, unless otherwise agreed by Norm Engineering in writing.
- 5.7. The Supplier shall ensure that Products are accompanied by the requisite delivery documents (including any shipping and customs documents) at no additional cost and that a delivery note excluding the price is supplied with all deliveries and shall provide Norm Engineering with copies of all transport related permits and any other transport documents promptly upon request or at the times set out in the Agreement.
- 5.8. Delivery notes must include all information requested by Norm Engineering and the Supplier must obtain the signature of an authorised representative of Norm Engineering on the delivery note evidencing goods receipt. The signing of the delivery note or the passing of title to Norm Engineering will not constitute approval by Norm Engineering of
- the Supplier's performance of its obligations, nor be taken as an admission or evidence that any of the Products comply with the requirements of the Agreement nor prejudice any rights or powers of Norm Engineering in any way.
- 5.9. Partial, advance, excess or short deliveries may only be made with the prior written consent of Norm Engineering' Representative. The Supplier shall indemnify Norm Engineering for any Loss suffered or incurred by Norm Engineering as a result of any unapproved partial, advance, excess or short deliveries (including transport costs).
- 6. Title, Property and Risk**
- 6.1. Unless otherwise agreed between the Parties, title to and property in Products passes to Norm Engineering upon payment or delivery, whichever occurs first. Risk in Products shall pass to Norm Engineering in accordance with the relevant Incoterms specified in the Agreement (or if no Incoterms are so specified, upon the Date of Delivery of the Products to the nominated Site for delivery specified in the Agreement).
- 6.2. For each Product, the Supplier warrants that at the time of delivery of the Product to Site:
- (a) the Supplier has complete ownership of the Product free of any liens, charges, Security Interests and encumbrances and provides the Product to Norm Engineering on that basis; and
 - (b) Norm Engineering is entitled to clear, complete and quiet possession of the Product.
- 7. Export Control and Foreign Trade Regulations**
- 7.1. The Supplier shall comply with all applicable export control, customs and foreign trade regulations.
- 7.2. The Supplier shall advise Norm Engineering in writing as early as possible but not later than 14 days after receipt of the Purchase Order – and promptly in case of changes – of any information and data required by Norm Engineering to comply with all Foreign Trade Regulations in the case of export and import as well as re-export, including:
- (a) all applicable export list numbers, including the 'Export Control Classification Number' according to the U.S. Commerce Control List (ECCN);
 - (b) the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
 - (c) the country of origin (non-preferential origin) and upon Norm Engineering' request, the Suppliers' declaration of preferential origin (in case of European suppliers) or preferential certificates (in case of non-European suppliers).
- 7.3. The Supplier warrants that all Products exported by the Supplier to Australia are not exported at a price below their 'Normal Value' as that term is defined in the *Customs Act 1901* (Cth).
- 7.4. The Supplier shall indemnify Norm Engineering and Norm Engineering' Personnel from and against any Claims and Loss incurred or suffered by them due to any breach of this clause 7 by the Supplier or the Supplier's Personnel.
- 7.5. Norm Engineering shall not be obligated to fulfil the Agreement if such fulfilment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargos or other sanctions.
- 8. Price & Payment**
- 8.1. The Supplier shall only invoice Norm Engineering at the times or intervals set out in the Agreement or at such other times as otherwise agreed between the Parties. Subject to any contrary term of the Agreement and Norm Engineering' rights under the Agreement, Norm Engineering shall pay the Supplier no later than 90 days after the Supplier's correctly rendered invoice is received.
- 8.2. If the Supplier makes a payment claim under any applicable Australian security of payment legislation, the payment claim (to the extent that it is undisputed) shall become due and payable by Norm Engineering within the shorter of:
- (a) the 90 day payment period specified in clause 8.1; and
 - (b) the maximum period permitted by such legislation.
- 8.3. Unless otherwise specified in the Agreement, prices:
- (a) are fixed and may not be varied without the prior written consent of Norm Engineering; and
 - (b) are in Australian dollars and include all Government taxes, duties, excises, tariffs and charges (except GST).
- 8.4. Norm Engineering shall not be required to pay any invoice (or any part of the invoice) or reimburse the Supplier for any approved expenses unless Norm Engineering receives a correctly rendered invoice. An invoice will be correctly rendered if:
- (a) the Work to which the invoice relates has been provided in accordance with the requirements of the Agreement;
 - (b) the specified amount is correctly calculated and due for payment;
 - (c) the invoice specifies the Purchase Order number, Product item number (if applicable) and all other relevant details requested by Norm Engineering and the invoice is set out in a manner that enables Norm Engineering to ascertain the Work to which the invoice relates and the amount payable in respect of such Work;

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- (d) the invoice is accompanied (where necessary or where reasonably requested by Norm Engineering) by verifying documentation;
- (e) the invoice reflects the Agreed Price or expenses which have been previously approved by Norm Engineering;
- (f) the invoice includes all information necessary for it to be used as a valid tax invoice for GST purposes (where the invoice includes an amount in respect of GST);
- (g) the invoice is forwarded to the correct Norm Engineering invoice address specified in the Purchase Order; and
- (h) the invoice is accompanied by a Subcontractor Statement in accordance with clause 8.10 (if applicable).
- 8.5. Norm Engineering shall not be required to pay the Agreed Price (or any part of the Agreed Price) for the Work or reimburse the Supplier for any agreed expenses unless the Supplier has provided Norm Engineering with:
- (a) all required bank details to enable the electronic transfer of the Agreed Price;
- (b) Security (if any is required by Norm Engineering) in accordance with the terms of the Agreement; and
- (c) evidence that all insurance required to be effected by the Supplier under the Agreement has been effected.
- 8.6. The Supplier acknowledges and agrees that Norm Engineering may withhold from the Agreed Price otherwise payable to the Supplier any amounts required to be withheld or remitted by Norm Engineering to relevant authorities under any applicable Laws.
- 8.7. The Parties agree that the consideration for any supply made under or in connection with the Agreement does not include GST. To the extent that any supply made under or in connection with the Agreement is a taxable supply, the consideration for that taxable supply is the amount for that taxable supply specified in the Agreement plus GST and the GST must be paid at the same time as the payment for the Taxable Supply is required to be made under the Agreement. Each Party must do all things (including providing the other Party with tax invoices and all other documentation that may be necessary or desirable to enable or assist the other Party to claim any input tax credit, adjustment, set off, rebate or refund for or in relation to any amount of GST paid or payable pursuant to any taxable supply made under or in connection with the Agreement). Words used in this clause which have a defined meaning in the GST Law have the same meaning as given in the GST Law, unless the context otherwise requires.
- 8.8. Norm Engineering and the Supplier may agree in writing upon special pricing arrangements such as rebate schemes, price review mechanisms, exchange rate variation mechanisms and rise and fall pricing.
- 8.9. Without prejudice to any other rights or remedies available to Norm Engineering, Norm Engineering may set-off, deduct or withhold from any amount due by Norm Engineering to the Supplier any amount which the Supplier, is liable to pay to Norm Engineering however or whenever incurred (including under an indemnity).
- 8.10. To the extent permitted by Law, Norm Engineering has no obligation to make any payment in respect of any Supplier invoice unless and until:
- (a) if the Products or Services are to be supplied to or from New South Wales, the Supplier has first given to Norm Engineering, for the month to which the Supplier's invoice relates, a completed subcontractor's statement regarding workers' compensation, payroll tax and remuneration in the form prescribed by the New South Wales Government;
- (b) if Products or Services are to be supplied to or from any other Australian State or Territory, the Supplier has first given to Norm Engineering a statutory declaration (in any applicable form) for the month to which the Supplier's invoice relates, declaring that, in respect of the invoiced Work, all of the Supplier's Personnel have been paid all monies due and payable to them (including superannuation and other entitlements) and all taxes, whether State or Federal, have been paid in respect of them including any State and/or Territory pay-roll tax; and
- (c) the Supplier has provided certificates of currency for all insurances required to be effected and maintained by the Supplier under clause 23.
- 8.11. If Norm Engineering becomes liable to pay any amount to any third party by reason of the Supplier's failure to provide the documentary evidence required under the Agreement, then clause 8.9 applies and Norm Engineering may pay such amount and may also have recourse to any Security it may be holding from the Supplier to pay any such liability.
- 8.12. Payment by Norm Engineering to the Supplier shall not:
- (a) constitute approval or acceptance of the Work or prejudice any claim by Norm Engineering;
- (b) constitute evidence of the value of any Work; or
- (c) be construed to mean that the Work has been supplied in accordance with the Agreement and shall not relieve the Supplier from any of the Supplier's obligations and responsibilities under the Agreement.
- 8.13. The Supplier must notify Norm Engineering in writing if any of the Supplier's contractors, subcontractors, consultants or suppliers ("Contractors") are or may be entitled to exercise a right to suspend work under a relevant agreement or subcontract pursuant to any security of payment legislation in force in Australia.
- 8.14. In circumstances described in clause 8.13 above:
- (a) Norm Engineering is entitled (but is not obliged) to provide a form of security to or to pay the Contractor to avoid suspension of work by such party; and
- (b) the Supplier indemnifies Norm Engineering for any loss or damage (direct or indirect) that Norm Engineering may suffer as a result of a suspension by a Contractor, unless and to the extent that such suspension is caused by the acts of Norm Engineering or Norm Engineering's Personnel (other than the Supplier).
- 8.15. If Norm Engineering exercises its entitlement to provide a form of security to or to pay a Contractor under clause 8.14, then the amount of that security or payment plus any associated costs to Norm Engineering arising from a call on that security or provision of that security, will be a debt due by the Supplier to Norm Engineering and may be set-off by Norm Engineering against any other payments that are due or become due to the Supplier.
- ## 9. Time
- 9.1. The Supplier shall perform the Work under the Agreement competently, with due expedition and without delay (including in accordance with the Delivery Schedule (if any) for the Work) so as to deliver the Work by the Date for Delivery, which date is binding and of the essence of the Agreement.
- 9.2. The Supplier shall take all reasonable steps to avoid delay and shall notify Norm Engineering immediately if a delay to the Delivery Schedule (if any) or the Date for Delivery is expected to occur. The Supplier shall bear all costs of any express shipments required to enable the Supplier to meet the applicable Date for Delivery.
- 9.3. The Supplier shall ensure that progress (including against the Delivery Schedule (if any)) is monitored at all times and shall update Norm Engineering of this progress at the intervals requested by Norm Engineering. The Supplier shall inform Norm Engineering of the name of the Supplier's employee who shall be responsible for monitoring deadlines and shall ensure that such employee is authorised to take all measures and to issue all instructions which, in Norm Engineering's opinion, may be necessary to ensure that deadlines are adhered to.
- 9.4. Review of, comments on or approval of, or any failure to review or comment on, any Delivery Schedule by Norm Engineering will not:
- (a) relieve the Supplier from, or alter, the Supplier's liabilities or obligations under the Agreement;
- (b) evidence or constitute the granting of an extension of time or a direction by Norm Engineering to accelerate, disrupt, prolong or vary any Work under the Agreement; or
- (c) affect the time for carrying out the Work under Agreement.
- 9.5. The Supplier shall ensure that any Work supplied on a Norm Engineering or Norm Engineering's customer Site is performed during the hours agreed between the Parties.
- 9.6. If the Supplier does not achieve Delivery by the Date for Delivery, the Supplier shall pay to Norm Engineering (and Norm Engineering may deduct) liquidated damages equal to 1% of the Agreed Price for each day of delay capped at 10% of the Agreed Price (or such other liquidated damages amount and cap as may be agreed between the Parties in writing). Liquidated damages shall be applied from the Date for Delivery up until the earlier to occur of: (a) the Date of Delivery; and (b) the liquidated damages cap being reached.
- 9.7. The Supplier acknowledges that the liquidated damages set out in the Agreement are a genuine pre-estimate of loss, are not a penalty and are without prejudice to any other rights or remedies of Norm Engineering under the Agreement. The obligation to pay or payment of such liquidated damages by the Supplier shall not affect any other obligations of the Supplier under the Agreement.
- ## 10. Extensions of Time
- 10.1. The Supplier may claim an extension of time under the Agreement in accordance with this clause, if the Supplier has been or will be delayed in executing the Work by the Date for Delivery due to:
- (a) a breach of contract by Norm Engineering;
- (b) postponement under clause 5.1 unless the instruction was due to any act, default, negligence or omission by the Supplier or the Supplier's Personnel;
- (c) variations directed in writing by Norm Engineering under clause 12 (unless such variation has been requested due to any act, default, negligence or omission by the Supplier or the Supplier's Personnel);
- (d) suspension under clause 13.2 (unless the suspension was due to any act, default, negligence or omission of the Supplier or the Supplier's Personnel); or
- (e) a Force Majeure Event, however neither parties' rights under clause 30.4 are limited under this clause.
- 10.2. If an extension of time is granted by Norm Engineering, Norm Engineering shall as soon as practicable notify the Supplier in writing of the extension of time granted and if the claim for an extension of time (or any part) is rejected, Norm Engineering shall notify the Supplier of the reasons for the rejection.

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- 10.3. The Supplier shall not be granted an extension of time under the Agreement unless the delay for which the extension is claimed is on the critical path of the Delivery Schedule (if any) or has affected or will affect the Supplier's ability to meet the Date for Delivery. Where there are concurrent delays, the Supplier shall not be entitled to claim an extension of time for the period where the delays overlap.
- 10.4. As a condition precedent to being granted an extension of time, the Supplier must:
- notify Norm Engineering in writing of the likelihood of the delay, as soon as becoming aware of the likelihood of the delay;
 - take all reasonable steps possible to prevent the cause of the delay and to mitigate the extent and consequences of the delay;
 - within 7 days after the occurrence of the cause of any delay, notify Norm Engineering in writing of the Supplier's intention to apply for an extension of time, specifying the cause of the delay, an estimated duration of the delay and the steps that the Supplier will take to mitigate the delay (which notices shall be consecutively numbered and otherwise be in the format requested by Norm Engineering);
 - within 14 days after the occurrence of the cause of any delay, give Norm Engineering a written claim for an extension of time. The claim shall state all the facts upon which the claim is based, the extension period claimed and shall show and justify any effect the extension of time shall have on the Delivery Schedule (if any) and the Date for Delivery, which claim shall be accompanied by a copy of the Delivery Schedule (if any) which has been marked up to show the direct impact of the delay and the revised Date for Delivery.
- 10.5. Notwithstanding that the Supplier is not entitled to or has not claimed an extension of time, Norm Engineering may at any time and from time to time before Final Completion direct an extension of time.
- 11. Variations**
- 11.1. Norm Engineering may direct the Supplier to vary the Work including by increasing, decreasing, or omitting any part of the Work. The Supplier shall not vary the Work except as directed in writing by Norm Engineering.
- 11.2. The Supplier shall immediately notify Norm Engineering if the Supplier considers that it is not possible for the Supplier to comply with a variation direction and shall provide written reasons for not being able to do so.
- 11.3. If the Supplier considers that the variation will have an effect on the value of the Work, the Date for Delivery, or the Delivery Schedule, or if so requested in writing by Norm Engineering, the Supplier shall:
- within 5 Business Days after a variation is directed, submit to Norm Engineering a statement advising whether or not a difference in Agreed Price will arise as a result of the directed variation and shall advise Norm Engineering of the approximate value of the cost difference (which statements shall be consecutively numbered and otherwise be in the format requested by the Supplier);
 - within 10 Business Days after a variation is directed, submit to Norm Engineering a detailed statement of the cost of any variation (bearing the same number and in the same format as stipulated in clause 12.3(a)) which statement shall set out all adjustments to the Agreed Price and other amounts claimed by the Supplier arising out of or in relation to the applicable variation request (on the basis that all other adjustments and/or amounts not included in the detailed statement arising out of or in relation to such variation shall be deemed to have been waived by the Supplier); and
 - comply with clause 11 if it intends to claim an extension of time.
- 11.4. The Supplier shall not be entitled to claim any payment for any variation:
- unless Norm Engineering has directed the Supplier in writing to execute the variation and the Supplier has complied with this clause 12. If the Supplier has not complied with clause 12, the Supplier may not claim any extension of time or any additional payment. The Supplier shall promptly implement variations to the Work requested by Norm Engineering; or
 - if the variation was directed by Norm Engineering due to any act, default, negligence or omission of the Supplier or the Supplier's Personnel.
- 11.5. No variation shall invalidate the Agreement and the Supplier agrees that Norm Engineering may engage others to carry out any parts of the Work which Norm Engineering directs the Supplier to omit. Any direction to omit Work will not constitute a repudiation of the Agreement regardless of the extent or timing of that direction.
- 12. Suspension**
- 12.1. The Supplier shall not suspend the supply of the Work without a written request from Norm Engineering.
- 12.2. Norm Engineering may at any time request that the progress of the whole or part of the Work under the Agreement be suspended for such period as Norm Engineering deems necessary. In such case, the Supplier shall, in consultation with Norm Engineering, cease to perform the applicable Work. If during a suspension period, Norm Engineering instructs the Supplier to resume the Work, the Supplier shall promptly recommence execution of the Work.
- 12.3. Unless the suspension was due to a Force Majeure Event or any act, default, negligence or omission of the Supplier or the Supplier's Personnel, the procedures set out at clause 12 apply to such postponement by Norm Engineering.
- 12.4. Suspension shall not affect the Date for Delivery specified in the Agreement but the cause of the suspension may be a ground for the Supplier to seek an extension of time.
- 13. Notification of Claims**
- To the extent permitted by Law, Norm Engineering shall not be liable in respect of any Claim (whether in contract, tort, negligence at equity or otherwise) arising out of or in relation to the Agreement or the Work unless:
- the Supplier has given Norm Engineering notice in writing within 14 days of first becoming aware of the event or circumstances on which the Claim is based; and
 - within 28 days of the cessation of the events or circumstances on which the Claim is based, the Supplier has provided a Claim.
- 14. Quality Assurance & Defects**
- 14.1. The Supplier shall plan, establish and maintain a quality system which ensures conformance of the Work with the requirements of the Agreement. The Supplier shall provide Norm Engineering with access to the quality systems of the Supplier and the Supplier's Personnel upon request by Norm Engineering to enable Norm Engineering to inspect, test and monitor the Supplier's compliance with the requirements of the Agreement. Without limiting any other provision of the Agreement, the Supplier shall comply with any specific quality management requirements of Norm Engineering which are notified to it by Norm Engineering from time to time.
- 14.2. Norm Engineering and third parties authorised by Norm Engineering, may upon giving the Supplier reasonable notice, inspect the Work being carried out by the Supplier or the Supplier's Personnel (at any stage of progress) at the Site and at the Facilities. As part of such inspections Norm Engineering may (amongst other things):
- monitor compliance with applicable Laws;
 - review, inspect, examine and witness any scheduled testing of Products;
 - review the Supplier's progress against the Delivery Schedule (if any) and the Supplier's ability to meet the Date for Delivery;
 - inspect any test equipment used in measuring or testing Products at the scheduled time of testing for such Products; and
 - examine the production status and test the quality of Products.
- 14.3. The Supplier and the Supplier's Personnel shall provide all the requisite test and inspection equipment, devices and personnel required for the purposes of carrying out any Product quality tests and inspections (at the Supplier's cost). Norm Engineering will use reasonable endeavours not to interfere with the day to day operations of the Supplier and the Supplier's Personnel while carrying out any of the tests and inspections under this clause 15.
- 14.4. The Supplier shall not be released from any of the Supplier's obligations arising out of or in relation to the Agreement by the fact that Norm Engineering or third parties authorised by Norm Engineering perform any quality reviews.
- 14.5. The Supplier shall agree the same quality assurance measures as set out in clauses 15.1 through 15.3 above with the Supplier's subcontractors and shall ensure that such subcontractors grant corresponding access, inspection, testing and monitoring rights to Norm Engineering and third parties authorised by Norm Engineering.
- 14.6. Norm Engineering shall not be deemed to have accepted any Work until Norm Engineering has had a reasonable time to inspect and perform tests, even if it has signed a delivery receipt or made any payment. Norm Engineering may perform tests to confirm compliance of the Work with the Agreement. If such tests show that the Work does not materially conform to the requirements of the Agreement, Norm Engineering reasonable costs of such testing shall be a debt due and owing by the Supplier to Norm Engineering.
- 14.7. Norm Engineering may direct the Supplier to rectify any Defects which occur during the Defects Liability Period by (at Norm Engineering's option) either:
- repairing or replacing the defective Products; re-supplying the defective Services (or paying for the cost of the Products to be repaired or replaced or Services to be re-supplied) and correcting and supplying Norm Engineering with all associated updated Documents; and
 - providing Norm Engineering with any materials, parts, drawings, Documents and instructions necessary to correct or have corrected the Defect.
- 14.8. If Norm Engineering makes a direction to rectify any Defects, the Supplier shall (at the Supplier's cost and without prejudice to any of Norm Engineering's other rights and remedies) promptly:
- carry out the rectification to Norm Engineering's satisfaction at times and in a manner causing as little inconvenience to Norm Engineering as is reasonably possible;
 - commence and complete the rectification of Defects by the dates specified by Norm Engineering, or if no timetable is provided by

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Norm Engineering as soon as practicable after notification of the Defect by Norm Engineering; and

- (c) dispose of rejected Products (or parts thereof) (if requested to do so by Norm Engineering).
- 14.9. There shall be a further, separate defects liability period for the rectified Work equal in length to the Defects Liability Period (unless otherwise agreed between the Parties in writing) which shall commence upon the date of completion of the rectification and which shall be governed by this clause.
- 14.10. If the rectification is not commenced or completed by any dates specified by Norm Engineering or otherwise in accordance with this clause 15, or if Norm Engineering reasonably considers that the Defects are incapable of being rectified by the Supplier within the required time frame or at all, Norm Engineering may at Norm Engineering' option (without prejudice to any of Norm Engineering' other rights and remedies):
- (a) rectify the Defect or have the rectification carried out by others at the Supplier's cost; or
- (b) reject all or part of the Product or Services in which case:
- (i) the Supplier shall refund to Norm Engineering any payments made by Norm Engineering in respect of such rejected Product and Services;
- (ii) the Supplier shall arrange for the removal of rejected Product (if any) at its cost within the reasonable period of time specified by Norm Engineering; and
- (iii) title and risk in rejected Product shall revert to the Supplier upon receipt by Norm Engineering of the refund.
- 14.11. Upon request by Norm Engineering, the Supplier shall indemnify Norm Engineering from and against all Loss suffered and Claims incurred by Norm Engineering and Norm Engineering' Personnel (including payments required to be made to third parties) arising out of or in relation to a Defect and its rectification including additional labour costs (on a time and materials basis); costs associated with removing and returning defective Products; inspection, evaluation and testing costs; re-working and installation costs; additional transportation costs; and all other additional internal administration, processing and travel costs.
- 14.12. If Norm Engineering exercises its right under this clause 15 to carry out or have others carry out any rectification work, the Supplier shall remain responsible for the Work in accordance with the Agreement.
- 14.13. Until Product Defects are rectified in full, the Supplier shall bear the risk of accidental loss, destruction or deterioration to such defective Product.
- 14.14. For a period of 2 years after expiry of the Defects Liability Period, the Supplier shall remedy all Latent Defects on the same terms and conditions as apply to the rectification of Defects during the Defects Liability Period.
- 14.15. If a Serial Defect is identified the Supplier shall, at Norm Engineering' request, rectify the Serial Defect in all the Products affected by the Serial Defect in accordance with the defect provisions contained in this clause 15 (irrespective of whether the Serial Defect has manifested itself in all of the individual Products). The Parties shall use reasonable endeavours to ensure that repair or replacement is carried out at a time that will cause as little disruption as possible to Norm Engineering and any person to whom the Products have been on-supplied (including where relevant taking into account any planned maintenance periods that may apply to the Products affected by the Serial Defect).
- 14.16. Within 42 days after the expiry of the last Defects Liability Period under the Agreement, Norm Engineering' Representative shall notify the Supplier of the Date of Final Completion. The issue of such notice shall not prejudice any claim by Norm Engineering or relieve the Supplier from any of its unfulfilled obligations or responsibilities including with respect to Latent Defects and Serial Defects.
- 15. Personnel and subcontracting**
- 15.1. If requested to do so by Norm Engineering, the Supplier shall provide Norm Engineering with an up-to-date, detailed organisational chart showing the positions of key Supplier Personnel associated with the provision of the Work.
- 15.2. Norm Engineering may request the Supplier to ensure that the Work under the Agreement is provided by particular Key Supplier Personnel. Norm Engineering may require the Supplier to immediately replace any of the Key Supplier Personnel on reasonable grounds.
- 15.3. The Supplier shall use its best endeavours to:
- (a) supply and retain the Key Supplier Personnel;
- (b) promptly inform Norm Engineering if any of the Key Supplier Personnel cease or give notice of an intention to cease being engaged by the Supplier;
- (c) promptly replace any Key Supplier Personnel who cease being engaged by the Supplier with a person having the necessary skill, experience, expertise and qualifications to perform the Work;
- (d) ensure that appropriate Key Supplier Personnel attend meetings if requested to do so by Norm Engineering.
- 15.4. The Supplier is responsible for supervising the Supplier's Personnel and bears the risk of any dispute, delay, disruption or inefficiency connected with or relating to any industrial action, of any of the Supplier's Personnel where that action arises out of or in connection the Work

under the Agreement or the way in which the Supplier conducts its business.

- 15.5. The Supplier shall not subcontract the whole or any part of the Work without obtaining the prior written consent of Norm Engineering. To the extent permitted by Law, the Supplier shall remain responsible for all acts, defaults, negligence and omissions of its subcontractors at all times and shall maintain and provide a list to Norm Engineering of all approved subcontractors upon request by Norm Engineering.
- 16. Relationship between the Parties**
- 16.1. The relationship between the Parties is one of independent contractor at all times. Nothing in the Agreement is intended to:
- (a) create an agency, partnership, joint venture or fiduciary relationship between Norm Engineering and the Supplier; or
- (b) have the effect of making any of the Supplier's Personnel the employees of Norm Engineering.
- 16.2. The Supplier shall pay all applicable salaries, leave entitlements, taxes (including payroll and PAYG taxes), superannuation and workers' compensation for the Supplier's employees.
- 16.3. The Supplier shall provide Norm Engineering with all necessary information to enable Norm Engineering to answer any enquiries made by the Australian authorities arising out of or in relation to the Agreement.
- 16.4. The Supplier shall provide satisfactory evidence to Norm Engineering upon request of the Supplier's compliance with this clause 17.
- 17. Norm Engineering' property**
- 17.1. Norm Engineering may from time to time supply goods and materials to the Supplier to enable the Supplier and the Supplier's Personnel to perform the Work. Legal title to and property in all Norm Engineering Material supplied by Norm Engineering for the Work shall remain with Norm Engineering and shall not pass to the Supplier under any circumstances. The Supplier shall only use the Norm Engineering Material to perform the Work and for no other purpose and bears the risk of loss, damage or deterioration to it. The Supplier shall store and take appropriate care of the Norm Engineering Material and compensate Norm Engineering for all Loss sustained by Norm Engineering if any Norm Engineering Material is lost or damaged or deteriorates. The Supplier must deliver the Norm Engineering Material to Norm Engineering upon request by Norm Engineering.
- 17.2. To the extent applicable, the Supplier consents to Norm Engineering perfecting Norm Engineering' interest in any goods provided by Norm Engineering to the Supplier by registration under the PPSA and agrees to do anything reasonably requested by Norm Engineering to enable Norm Engineering to do so.
- 17.3. All drawings, specifications, information and samples provided by Norm Engineering shall remain Norm Engineering' sole and exclusive property and is deemed to be Confidential Information. Norm Engineering makes no warranties regarding the accuracy of, and shall not be liable for, any defects, mistakes or inaccuracies in such documents, information or samples.
- 18. PPSA**
- The Supplier must:
- 18.1. not register or otherwise perfect or seek to perfect any Security Interest in or in connection with a Relevant PPSA Matter;
- 18.2. use best endeavours to ensure that no third party registers or otherwise perfects or seeks to perfect any Security Interest in or in connection with a Relevant PPSA Matter;
- 18.3. remove from, and use best endeavours to ensure third parties remove from, any relevant register any Security Interest in or in connection with a Relevant PPSA Matter that the Supplier or such other third party has previously registered; and
- 18.4. ensure all subcontracts (if any) entered into by the Supplier in connection with the Work have, for the benefit of Norm Engineering, a clause that reflects this clause 19.
- 19. Confidentiality**
- 19.1. Both parties shall:
- (a) keep confidential, and not use, access, copy or disclose any Confidential Information except as permitted by this clause 20 or otherwise consented to by the Disclosing Party in writing; and
- (b) immediately notify the Disclosing Party if the Receiving Party becomes aware of any loss or unauthorised use, access, copying, disclosure or publication of any Confidential Information.
- 19.2. Both parties may, to the extent necessary, use Confidential Information for the purposes of performing its obligations or exercising its rights arising under the Agreement.
- 19.3. The Supplier may disclose Confidential Information to the Supplier's Personnel who have a specific need to access that Confidential Information for the purposes of enabling the Supplier to perform its obligations or exercise its rights arising under the Agreement provided that:
- (a) the Supplier's Personnel have first been made aware of the terms upon which the Confidential Information has been disclosed to the Supplier and a duty to handle such Confidential Information in confidence is imposed upon the Supplier's Personnel;

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- (b) the Supplier ensures that the Supplier's Personnel comply with the terms of this clause as if they were parties to the Agreement; and
- (c) any breaches of this clause 20 by the Supplier's Personnel shall be deemed to be breaches by the Supplier.
- 19.4. Norm Engineering may disclose the Confidential Information to Norm Engineering' Personnel, its Related Bodies Corporate and its Related Bodies Corporate's Personnel as it deems reasonably necessary.
- 19.5. The confidentiality obligations in this clause 20 do not apply to Confidential Information which:
- (a) is or becomes public knowledge other than as a result of a breach of confidence;
- (b) is lawfully obtained by the Receiving Party from a third party without any confidentiality obligation (other than as a result of a breach of confidence);
- (c) is independently developed by the Receiving Party without reference to any obtained Confidential Information; or
- (d) the Receiving Party is required to disclose to comply with any applicable Law, legally binding court order, request by a governmental agency or under the rules of a stock exchange.
- 19.6. The burden of proving that Confidential Information falls within an excluded category in clause 20.5 rests with the Disclosing Party.
- 19.7. If any Laws require that Confidential Information be passed on to public bodies for the purpose of obtaining approvals and permits, the Receiving Party shall do everything reasonably within the Receiving Party's power to ensure that such Confidential Information is also treated confidentially by such public bodies.
- 19.8. Norm Engineering may at any time request the Supplier to either destroy or return to Norm Engineering all Confidential Information received from Norm Engineering. The Supplier shall destroy or return the Confidential Information (and all copies of such Confidential Information) to Norm Engineering within 14 days after receipt of Norm Engineering' request.
- 19.9. The duty to maintain secrecy shall survive the expiration or earlier termination of the Agreement.
- 20. IP Rights**
- 20.1. Except to the extent otherwise agreed between Norm Engineering and the Supplier in writing, nothing in the Agreement operates to transfer ownership of any Background IP Rights from either Party or any third party to the other Party. All such Background IP Rights are and remain owned by the relevant Party or third party. The Supplier grants Norm Engineering an irrevocable, non-exclusive, transferable, royalty-free licence to use Background IP Rights in connection with the Work and for the use, repair, maintenance, upgrade or modification of Products.
- 20.2. Unless otherwise agreed by the Parties in writing and subject to clause 21.1, the Supplier:
- (a) assigns to Norm Engineering free from all encumbrances all IP Rights specifically created by the Supplier or the Supplier's Personnel for Norm Engineering in connection with the Work; and
- (b) acknowledges that by virtue of this clause all such IP Rights vest in Norm Engineering upon their creation, and the Supplier shall, at its cost, do all things reasonably requested by Norm Engineering to enable Norm Engineering to assure further the rights assigned under this clause, including executing (and procuring the Supplier's Personnel to execute) any formal assignment or other documents required to give effect to this clause and to provide all reasonable assistance to Norm Engineering to protect Norm Engineering' interests.
- 20.3. The Supplier must disclose to Norm Engineering any significant material which the Supplier and/or the Supplier's Personnel create in the course of providing the Work at the time of its creation.
- 20.4. The Supplier represents and warrants that Products do not contain any Open Source Software other than as disclosed by the Supplier to Norm Engineering in accordance with this clause. If any Products contain Open Source Software, the Supplier (prior to accepting the Purchase Order) shall deliver to Norm Engineering:
- (a) a list of all Open Source Software to be provided by the Supplier (indicating the correct version number) and the relevant Open Licence Terms;
- (b) a complete copy of all Open Licence Terms; and
- (c) the source code and build scripts for each version of the relevant Open Source Software to be provided to Norm Engineering (insofar as the applicable Open Licence Terms require such disclosure).
- 20.5. Norm Engineering' use of material provided by the Supplier under the Agreement includes Norm Engineering' right to reproduce, publish, copy, adapt, communicate to the public, destroy or in any way change the materials (or any part):
- (a) with or without attribution of authorship;
- (b) in any medium; and
- (c) in any context and in any way it deems fit.
- 20.6. The Supplier warrants that:
- (a) the Supplier has the authority to grant the rights granted under this clause 21; and
- (b) the possession and use of the Products by Norm Engineering in accordance with the Agreement shall not infringe any third party's IP Rights (including any author's moral rights under the Copyright Act 1968 (Cth)) and will not result in any royalties, fees or other amounts (not agreed to by Norm Engineering) becoming payable for or relating to the use of such IP Rights.
- 20.7. The Supplier shall indemnify Norm Engineering and Norm Engineering' Personnel against any Claims and Loss incurred by Norm Engineering or Norm Engineering' Personnel arising out of or in relation to any actual or alleged infringement of a third party's IP Rights. The Supplier shall at Norm Engineering' option and at the Supplier's expense either replace such infringing Product with a non-infringing Product, or modify such Product so as to render it to be non-infringing (in either case, to deliver the same functionality and performance as the infringing part), or procure for Norm Engineering the right to use such Product.
- 20.8. Norm Engineering shall inform the Supplier if any third party brings a Claim against Norm Engineering alleging breach of any third party's IP Rights arising out of or in relation to Norm Engineering' possession or use of the Products.
- 21. Indemnity and Liability**
- 21.1. The Supplier releases and indemnifies Norm Engineering and Norm Engineering' Personnel ("Indemnified Parties") from and against all Loss and Claims, suffered or incurred by the Indemnified Parties to the extent caused or contributed to by
- (a) the performance or non-performance of the Work or any act, omission or negligence by the Supplier or the Supplier's Personnel; or
- (b) any Claim by a third party arising out of or in connection with the performance or non-performance of the Work or any act, omission or negligence by the Supplier or the Supplier Personnel
- including any Loss or Claim arising out of:
- (i) breach of contract or warranty;
- (ii) breach of any Laws;
- (iii) personal injury, disease, illness and/or death;
- (iv) loss of or damage to property;
- (v) tort (including negligence), fraudulent or wilful misconduct; or
- (vi) breach of confidentiality, infringement of third party IP Rights or infringement of any author's moral rights
- but the indemnity shall be reduced proportionately to the extent that the Loss or Claim by the Supplier or the Supplier's Personnel was caused by the negligence of the Indemnified Parties.
- 21.2. The indemnity in clause 21.1 shall survive the expiration or earlier termination of the Agreement.
- 21.3. Except to the extent that liability cannot be legally limited or excluded:
- (a) Norm Engineering' total liability arising out of or in relation to the Agreement shall not exceed the Agreed Price; and
- (b) Norm Engineering shall not be liable for indirect or consequential loss or damage, economic loss, loss of profit, loss of revenue, loss of contract, loss of production or production stoppage, or loss of data
- and this limitation and exclusion of liability applies whether the liability claim is based upon breach of contract, tort (including negligence), under a warranty or an indemnity, under statute, in equity or otherwise.
- 22. Insurance**
- 22.1. Before commencing any Work under the Agreement, the Supplier shall effect with a reputable insurer all insurances to adequately cover the Supplier and the Supplier's Personnel under the Agreement, including:
- (a) a public and products liability policy which provides coverage for an amount of not less than AUD 10 million per occurrence or such other amount as agreed in writing between the Parties;
- (b) a contract works insurance policy covering loss of or damage to the Work (if any Work will be performed on Site);
- (c) if the Work includes any consulting or design, a professional indemnity insurance policy for an amount of not less than AUD 5 million per occurrence, to be maintained for 6 years following the Date of Final Completion or such other amount and time period as may be agreed in writing between the Parties;
- (d) comprehensive motor vehicle insurance in respect of any vehicle used by the Supplier and the Supplier's Personnel in performing the Work;
- (e) workers' compensation insurance to cover the Supplier's statutory and common law liability to persons engaged by the Supplier to perform the Work which insurance policy will comply with the Laws applicable in the location where the Work is to be performed; and
- (f) any other insurance which is required by Law to be effected in the location where the Work is to be performed.
- 22.2. The public and products liability policy and the contract works policy (if any) must name Norm Engineering as an additional insured and include a cross-liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons comprising the insured.
- 22.3. All insurance policies shall be on terms and with an insurer reasonably acceptable to Norm Engineering. The Supplier shall provide Norm Engineering with certificates of currency evidencing the above insurance requirements and details of the insurance cover before

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commencing any Work under the Agreement and at other times within 5 Business Days after receiving a request from Norm Engineering to do so.

- 22.4. Without prejudice to any other rights or remedies, if the Supplier fails to take out and maintain the required insurances, Norm Engineering may effect them and the cost of such insurance shall become a debt due and payable from the Supplier to Norm Engineering and may be recovered by Norm Engineering under clause 8.9. Norm Engineering may withhold payment until evidence of insurance is provided by the Supplier in accordance with this clause 23.

23. Termination

23.1. If the Supplier:

- (a) breaches clause 3.6 or clause 3.15 of these Conditions;
- (b) commits an irremediable breach and/or any persistent breach of the Agreement;
- (c) does not remedy any other breach of the Agreement within 14 days of receiving a notice of breach requesting remedy of same;
- (d) becomes unable to pay the Supplier's debts as and when they fall due, becomes bankrupt or has an administrator; controller; liquidator; provisional liquidator; mortgagee in possession; receiver; receiver and manager; or other like officer appointed to it or over some or all of its assets or undertaking or experiences any analogous event having a substantially similar effect; or
- (e) experiences a substantial change to its legal or financial status, ownership structure, shareholders or management (which in Norm Engineering's reasonable opinion makes it unreasonable to expect Norm Engineering to remain bound by the Agreement),

then Norm Engineering may, at its option and without prejudice to any other rights it may have, by notice in writing terminate the Agreement in whole or part with immediate effect and retain or enforce any Security given under it. Norm Engineering may apply such Security to any Loss incurred by Norm Engineering arising out of or in relation to such termination. The Supplier shall immediately refund any amounts paid by Norm Engineering in respect of Work not yet performed under the terminated Agreement and, if requested to do so by Norm Engineering, shall deliver to Norm Engineering any Work completed in accordance with the Agreement, as at the date of termination (subject only to payment of agreed costs, or failing agreement, direct costs and normal overheads for such Work).

- 23.2. Norm Engineering may terminate the Agreement at any time, for convenience, in whole or part, by providing at least 14 days' written notice to the Supplier and may thereafter either by itself or by a third party complete the uncompleted part of the Work under the Agreement. In the event of termination for convenience under this clause, the Supplier shall be entitled to payment of the following amounts, as its sole entitlement for compensation arising out of or in relation to such termination:

- (a) the unpaid value of Work completed in accordance with the Agreement prior to the date of termination;
- (b) any pre-approved expenses already incurred by the Supplier prior to the date of receipt of the notice of termination;
- (c) the cost of goods or materials reasonably ordered by the Supplier for the Work for which the Supplier is legally bound to accept and pay, (subject to clear title and possession of such goods and materials being transferred to Norm Engineering upon payment); and
- (d) the costs of demobilisation of the plant and equipment set up to produce the Work including cancellation fees,

provided that such costs are unavoidable, substantiated to Norm Engineering (in a written form reasonably requested by Norm Engineering) and only to the extent that the Supplier cannot recover or mitigate such costs, but in no event shall such amounts exceed the Agreed Price that would have otherwise been paid to the Supplier under the Agreement but for Norm Engineering's termination and Norm Engineering shall have no further liability to the Supplier in respect of the termination.

- 23.3. If the Agreement is terminated by Norm Engineering:

- (a) the Supplier must immediately return all of the Norm Engineering Material and Norm Engineering's Confidential Information to Norm Engineering; and
- (b) any Security held by Norm Engineering under the Agreement may be retained by Norm Engineering until all of the Supplier's obligations are fulfilled and may also be applied against any Loss suffered by Norm Engineering as a result of a breach by the Supplier.

24. Dispute Resolution

- 24.1. If any dispute or difference occurs between the Parties arising out of or in relation to the Agreement ("Dispute"), either Party may give written notice of that Dispute to the other Party, giving details of the subject-matter of the Dispute ("Notice of Dispute").

- 24.2. Upon the giving of a Notice of Dispute, the following shall apply:

- (a) the Dispute shall be submitted for negotiation by the management representatives of the Parties who have the authority to resolve the Dispute;

- (b) if within 14 days of the giving of the Notice of Dispute, the Dispute has not been resolved between the appointed management representatives to the satisfaction of both Parties, the Dispute may be referred by either Party to the respective Chief Executive Officers of the Parties or their respective senior management delegates who have the authority to resolve the Dispute;

- (c) if within 28 days of the giving of the Notice of Dispute, the Dispute has not been resolved, then either Party may refer the Dispute to mediation by a mediator agreed by the parties, or failing agreement by a mediator appointed by the Chair of the Resolution Institute;

- (d) Subject to compliance first with the steps under paragraphs (a) to (c) of this sub clause, all Disputes arising out of or in connection with the Agreement shall be submitted to arbitration in accordance with, and subject to, the Resolution Institute Arbitration Rules by one arbitrator who shall be a lawyer and who shall make a decision based on legal substance; and

- (e) if the Parties fail to agree upon the appointment of an arbitrator within 42 days of the giving of the Notice of Dispute, the appointment will be made by the Chair for the time being of the Resolution Institute, unless otherwise agreed by the Parties.

- 24.3. The award of the arbitration shall be final and binding on both Parties in accordance with the applicable legislation applying to Commercial Arbitrations and judgment may be entered in any court having jurisdiction.

- 24.4. A reference to arbitration under this clause shall not relieve the Supplier of any obligations under the Agreement, including, if and so far as is reasonably practicable, the obligation to take steps necessary during arbitration proceedings to ensure that the progress of the Agreement will be maintained.

- 24.5. Unless otherwise agreed between the Parties, the seat of Arbitration shall be Queensland, Brisbane. The language to be used in the arbitration shall be English.

- 24.6. Nothing in this clause shall prejudice the right of a Party to seek urgent injunctive or declaratory relief in respect of a Dispute under this clause 25 or any matter arising out of or in connection with the Agreement.

25. Occupational Health, Safety and the Environment

- 25.1. The Supplier is responsible for the management of health, safety and environmental issues during its performance of the Agreement. The Supplier shall take all reasonable precautions to protect persons and the environment and without limiting the foregoing shall comply with and ensure that the Supplier's Personnel comply with all applicable Laws relating to health, safety and the environment.

- 25.2. Without limiting any other provision or obligation under the Agreement, the Supplier shall use its best endeavours to ensure that workplaces (including the Facilities) used to perform any part of the Work are safe, adequately managed and to the extent reasonably practicable, are free from risks to health, safety and the environment. In doing so, the Supplier shall ensure that:

- (a) it has implemented a safety and environmental management system complying with ISO 45001 Occupational Health and Safety and ISO 14001 Environmental Management Systems (or equivalent standards);

- (b) it prepares all applicable safe work method statements for the Work which describe how the Work is to be performed and equipment used and which identify; (i) the Work activities assessed as having safety and environmental risks and the control measures that will be applied to such risks; (ii) the standards or codes to be complied with; (iii) the qualifications of the Supplier's Personnel required to do the Work; and (iv) the training required to do the Work;

- (c) the Work is adequately supervised at all times to ensure workplace health and safety and protection of the environment;

- (d) all of the Supplier's Personnel under the Supplier's control are qualified, have undertaken the relevant training for the Work and hold relevant current qualifications, licences, permits, authorisations, competencies and certifications in accordance with applicable Laws;

- (e) all Supplier Personnel are provided with all relevant information, tools, plant, equipment and instruction to ensure safe performance of the Work;

- (f) all plant, equipment and substances used in performing the Work are safe and limit, as far as reasonably practicable, risks to health, safety and the environment (when properly used);

- (g) it conducts its operations in a manner that protects the environment and prevents pollution;

- (h) to the extent reasonably practicable, it avoids the use of environmentally harmful materials or substances (and if such use is unavoidable, it stores, uses and disposes of the same in accordance with the Law);

- (i) it notifies Norm Engineering if the Supplier considers that more environmentally friendly materials, packaging or methods of manufacture exist; and

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- (j) it complies with all Norm Engineering' Policies concerning the declaration of substances.
- 25.3. The Supplier must comply with all of Norm Engineering' environment, health and safety (EHS) Policies and where in place, EHS project plans.
- 25.4. Norm Engineering may, upon reasonable notice to the Supplier, review the Supplier's compliance with this clause 26 and the Supplier shall co-operate with any reasonable requests of Norm Engineering in connection with such review. If requested by Norm Engineering, the Supplier shall provide written certification to Norm Engineering that it has complied with this clause 26.
- 25.5. If the Supplier is supplying any Products, which:
- (a) are subject to substance restrictions and/or information requirements imposed by applicable Law (eg REACH and RoHS); or
 - (b) are or contain substances that Norm Engineering requires to be declared,
- 25.6. If requested by Norm Engineering acting reasonably, the Supplier shall act as the principal contractor (as that term or its equivalent is used in the relevant work health and safety Laws in each of the States and Territories in Australia), at a Site in which case the Supplier must comply with the following:
- (a) complete all forms and attend to all statutory requirements to ensure that it is appointed as the principal contractor;
 - (b) pay all fees and charges payable under the applicable health and safety Laws in connection with the execution and performance of the Work;
 - (c) comply with its obligations as principal contractor at the Supplier's own cost; and
 - (d) accept that it is the person responsible for the Work and is doing or causing to be done, all of the Work at the Site for the purposes of the applicable health and safety Laws.
- 26. Corporate Responsibility in the Supply Chain**
- 26.1. The Supplier shall comply with the principles and requirements of the 'Norm Engineering Code of Conduct for Suppliers and Third-Party Intermediaries' set out in the Annexure to these Conditions ("**Code of Conduct**").
- 26.2. If requested by Norm Engineering, the Supplier shall not more than once a year (at the Supplier's option) provide Norm Engineering with either:
- (a) a written corporate responsibility self-assessment in the form provided by Norm Engineering; or
 - (b) a written report approved by Norm Engineering describing the actions taken or to be taken by the Supplier to ensure compliance with the Code of Conduct.
- 26.3. Norm Engineering and its authorised agents and representatives and/or a third party appointed by Norm Engineering and reasonably acceptable to the Supplier may conduct inspections (including at the Supplier's Facilities) in order to verify the Supplier's compliance with the Code of Conduct. Any inspection may only be conducted upon prior written notice by Norm Engineering, during regular business hours, in accordance with applicable Privacy Laws and data protection laws and shall not unreasonably interfere with the Supplier's business activities or violate any of the Supplier's confidentiality agreements with third parties. The Supplier shall reasonably co-operate in any inspections conducted. Each Party shall each bear its own expenses in connection with such inspections.
- 26.4. Without limiting any other obligations in the Agreement, the Supplier undertakes to comply with all applicable provisions of the *Modern Slavery Act 2018* (Cth). If requested by Norm Engineering, the Supplier shall provide Norm Engineering with any information that is required to enable Norm Engineering to make annual public reports ("**Modern Slavery Statements**") on its actions to assess and address modern slavery risks in its operations and supply chains, including without limitation, details of the Supplier's supply chain, due diligence and adherence to adequate remuneration and employment conditions.
- 26.5. In addition to other rights and remedies Norm Engineering may have and without limiting clause 24, and without liability to the Supplier, Norm Engineering may terminate the Agreement by giving written notice to the Supplier with effect from the date specified in the termination notice if the Supplier breaches this clause 27. Norm Engineering will not exercise its right to terminate for breach of clause 27.2 or 27.3 unless Norm Engineering has first notified the Supplier of the breach and has given the Supplier a reasonable opportunity to remedy the breach.
- 27. Security in the Supply Chain**
- 27.1. The Supplier shall take all necessary measures to ensure security in the supply chain in accordance with the requirements of internationally recognised initiatives based on the WCO SAFE Framework of Standards (eg AEO, C-TPAT) (including implementing measures to ensure the security of: (a) all premises used in connection with the Work; (b) packaging; (c) transportation; (d) information; and (e) the Supplier's Personnel).
- 27.2. The Supplier shall protect the Products to be supplied under the Agreement against unauthorised access and manipulation.
- 27.3. The Supplier shall only engage reliable Personnel to supply the Work and shall ensure that all of the Supplier's Personnel effect equivalent security measures.
- 27.4. Without prejudice to Norm Engineering' other rights and remedies, Norm Engineering may terminate the Agreement (and cancel any associated Purchase Order) without liability if the Supplier breaches this clause 28 and the Supplier has not remedied the breach after having been given a reasonable period of time to remedy same.
- 28. Cybersecurity**
- 28.1. The Supplier shall take appropriate organisational and technical measures to ensure the confidentiality, authenticity, integrity and availability of Supplier Operations as well as products and services. These measures shall be consistent with good industry practice and shall include an appropriate information security management system consistent with standards such as ISO/IEC 27001 or IEC 62443 (to the extent applicable).
- 28.2. "Supplier Operations" means all assets, processes and systems (including information systems), data (including Norm Engineering' data), personnel, and sites, used or processed by the Supplier from time to time in the performance of this Agreement.
- 28.3. Should products or services contain software, firmware, or chipsets the Supplier shall:
- (a) implement appropriate standards, processes and methods to prevent, identify, evaluate and repair any vulnerabilities, malicious code, and security incidents in products and services which shall be consistent with good industry practice and standards such as ISO/IEC 27001 or IEC 62443 (to the extent applicable);
 - (b) the Supplier shall continue to support and provide services to repair, update, upgrade and maintain products and services including the provision of patches to Norm Engineering remedying vulnerabilities for the reasonable lifetime of the products and services;
 - (c) provide to Norm Engineering a bill of materials identifying all third-party software components contained in the products and third party software shall be up-to-date at the time of delivery to Norm Engineering;
 - (d) grant to Norm Engineering the right, but Norm Engineering shall not be obliged, to test or have tested products for malicious code and vulnerabilities at any time, and shall adequately support Norm Engineering; and
 - (e) provide Norm Engineering a contact for all information security related issues (available during business hours).
- 28.4. The Supplier shall:
- (a) promptly report to Norm Engineering all relevant information security incidents occurred or suspected and vulnerabilities discovered in any Supplier Operations, services and products, if and to the extent Norm Engineering is or is likely to be materially affected; and
 - (b) take appropriate measures to achieve that its subcontractors and suppliers shall, within a reasonable time, be bound by obligations similar to the provisions of this clause 29.
- 28.5. Upon the Norm Engineering' request, the Supplier shall provide written evidence of its compliance with this clause 29 including generally accepted audit reports (e.g., SSAE-16 SOC 2 Type II).
- 29. Force Majeure**
- 29.1. If a Force Majeure Event prevents a Party from complying with any of its obligations under the Agreement, then it shall notify the other Party of that Force Majeure Event and shall specify the obligations which are or will be prevented from being performed. The notice shall be given within 14 days after the Party became aware (or should have become aware) of the Force Majeure Event.
- 29.2. Once a Party has notified the other Party in accordance with clause 30.1, it shall be excused from performing the affected obligations for so long as the Force Majeure Event prevents it from performing them.
- 29.3. Each Party shall:
- (a) at all times use all reasonable endeavours to minimise any delay in the performance of the Agreement arising as a result of a Force Majeure Event; and
 - (b) notify the other Party when it ceases to be affected by a Force Majeure Event.
- 29.4. If a Force Majeure Event prevents a Party from complying with its obligations for more than 6 months, either Party may terminate the Agreement by notice to the other Party. The accrued rights and remedies of each Party will not be affected by such termination.
- 30. Notices**
- 30.1. Any formal notice or demand ("**Notice**") to be given or made under the Agreement:
- (a) must refer to the Agreement and state the clause under which the Notice is given; and
 - (b) must be given in writing and be delivered to the intended recipient by pre-paid post or by hand to the registered address of the recipient (or to such other address as notified by a Party to the other in accordance with this clause) and in the case of Notices to

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Norm Engineering, must be directed to the attention of the 'Company Secretary'. Norm Engineering may also deliver a Notice to the Supplier by pre-paid post or hand delivery to the Supplier's Representative.

- 30.2. Day-to-day communications may be made between Norm Engineering and the Supplier by email.
- 30.3. Any Notice will be deemed to be delivered:
- (a) if delivered in person, at the time of delivery; and
 - (b) if delivered by pre-paid post, 2 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country).
- 30.4. If a Notice is delivered or deemed to have been delivered on a day which is not a Business Day in the place to which the Notice is sent or is later than 4.00 pm (local time), it will be taken to have been delivered at 9.00 am (local time) on the next Business Day in that place.
- 31. General**
- 31.1. The Agreement may only be varied or amended in writing signed by both Parties.
- 31.2. If the whole or any part of the Agreement is or becomes or is held to be illegal invalid or unenforceable, then the whole and each part of the clauses of the Agreement shall (to the extent necessary to avoid such illegality invalidity or unenforceability) be interpreted read down or severed without affecting the operation of the remaining clauses.
- 31.3. The Supplier shall not, without the prior written consent of Norm Engineering, assign or otherwise transfer the Agreement (or any part of it) to a third party. A change in control of the shareholding of the Supplier will be a deemed assignment for the purposes of this clause. Norm Engineering may at any time assign or otherwise transfer the Agreement (or any part of it) and must, within a reasonable time after such assignment or transfer notify the Supplier.
- 31.4. Unless otherwise agreed between the Parties, the Agreement shall be governed by and construed in accordance with the laws of the State of Queensland, Australia. Subject to clause 25, the Parties irrevocably submit to the exclusive jurisdiction of the courts of that State and to the appeal courts from them.
- 31.5. Unless otherwise provided in the Agreement, the rights, powers and remedies provided to Norm Engineering under the Agreement are cumulative with and not exclusive of the rights, powers or remedies independently provided by Law.
- 31.6. The provisions of the Agreement (and to the extent permitted by Law each Security Interest) remaining to be performed or capable of having effect after termination or expiry remain in full force and effect notwithstanding such termination or expiry. Termination or expiry of the Agreement (however occurring) shall be without prejudice to any rights or obligations of the Parties arising on or prior to the date of termination or expiry.
- 31.7. Any consent or approval by Norm Engineering required under the Agreement may be given or withheld by Norm Engineering in its absolute discretion unless the Agreement states otherwise. Norm Engineering may impose conditions upon the grant of any such consent or approval.
- 31.8. The Agreement constitutes the entire agreement between the Parties as to its subject matter and the Parties acknowledge that there are no other understandings, agreements, or representations whether express or implied in any way relating to its subject matter.
- 31.9. No right under the Agreement shall be deemed to have been waived by Norm Engineering unless the waiver is in writing. Any such waiver will not prejudice Norm Engineering' rights in respect of any subsequent breach by the Supplier.
- 31.10. Subject to any contrary provisions in the Agreement, the Agreement shall be binding upon respective successors, substitutes and permitted assigns of the Parties.
- 31.11. The Supplier shall not make or cause to be made any public announcement or provide any information to the media of, or in relation to the Agreement without the prior written consent of Norm Engineering (except as required by Law or by the rules of any recognised stock exchange to which the Supplier or a Related Body Corporate of the Supplier is subject, in which case the Supplier shall first give Norm Engineering a reasonable opportunity to review such announcement or information). The Supplier shall notify Norm Engineering immediately if the Supplier or any of the Supplier's Personnel are contacted by any media representative in relation to any aspect of the Agreement (including the Work supplied under it).
- 31.12. If a payment or any other act is required to be made or done on a day which is not a Business Day, the payment or act shall be made or required to be made on the next Business Day.
- 31.13. The Supplier shall promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by the Agreement.
- 31.14. Each Party shall pay its own legal costs of or incidental to the negotiation of the Agreement.
- 31.15. The Purchase Order may include or refer to special conditions which override, exclude or modify these Conditions. If there is any ambiguity or inconsistency between any constituent parts of the Agreement, the

following order of precedence shall apply to resolve the ambiguity or inconsistency: (a) any special conditions contained or referred to in the Purchase Order; (b) the other terms of the Purchase Order; (c) these Conditions; and (d) all other documents attached by Norm Engineering or which Norm Engineering agrees are incorporated into the Agreement by reference (with (a) having the highest priority).

32. Application of proportionate liability legislation

- 32.1. To the extent permitted at law, the operation of Part IVAA of the *Wrongs Act 1958 (Vic)* (and any equivalent statutory provision in any state or territory relating to proportionate liability that may apply in the State in which the Works are being carried out), is excluded or waived in relation to all and any rights, obligations, or liabilities under this Agreement whether such rights, obligations, or liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity under statute or otherwise at law.
- 32.2. Without limiting the generality of clause 32.1 above, the rights, obligations and liabilities of the parties (including those relating to proportionate liability) are as specified in this Agreement and not otherwise whether such rights, obligation and liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity under statute or otherwise at law.