

**CRAIG INTERNATIONAL
(AUSTRALIA) PTY LTD
TERMS AND CONDITIONS OF
PURCHASE**

Effective Date: 19 December 2025

These **TERMS AND CONDITIONS OF PURCHASE** (“**Terms and Conditions**”) will apply to all Orders covering the rental of goods, the sale of goods, and/or the provision of services which are issued by **CRAIG INTERNATIONAL (Australia) PTY LTD** (ACN 671 333 412) (“**CI**”).

1 DEFINITIONS

In these Terms and Conditions and any other associated or collateral documents (unless a contrary intention is stated):

- 1.1 “**ACL**” means the Competition and Consumer Act 2010 (Cth);
- 1.2 “**Affiliate**” means, with respect to a particular entity, any body corporate that is related to that entity by virtue of section 50 of the Corporations Act;
- 1.3 “**Applicable Laws**” means any acts, regulations, ordinances, by-laws or permits relating to CI, the Supplier or the Works;
- 1.4 “**CI Group**” means CI, its customers, its and their respective Affiliates and its and their directors, officers and employees (including without limitation agency personnel), but shall not include any member of the Supplier Group;
- 1.5 “**Claim**” means claims, liens, judgments, penalties, awards, remedies, debts, liabilities, damages, demands, costs, losses, expenses (including without limitation legal costs and expenses on a fully indemnity basis) or causes of action, of whatever nature (including without limitation those enjoyed by successors or assigns of the initial party);
- 1.6 “**Consequential Loss**” means any indirect or consequential loss which includes loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit (if any), loss of business opportunity, or loss of goodwill, whether or not foreseeable at the date of the Order, except to the extent such losses or damages are part of a Third Party claim for which a party is seeking contribution or indemnification pursuant to any Order;
- 1.7 “**Contract Price**” means the price agreed between the parties to be payable by CI in relation to the performance of an Order by the Supplier;
- 1.8 “**Corporations Act**” means the *Corporations Act 2001* (Cth);
- 1.9 “**Defects Liability Period**” means the period of 12 months commencing on the date on which the relevant part of the Work is completed;
- 1.10 “**Designated Location**” means the location where CI instructs the Supplier to perform the Services and/or to deliver the Sale Goods and/or the Rental Equipment;
- 1.11 “**GST**” has the meaning given to that term in the GST Act;
- 1.12 “**GST Act**” means A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- 1.13 “**Order**” has the meaning given to that term in clause 2.1;



1.14 **“Purchase Order”** means an order in any form which is issued by CI to the Supplier;

1.15 **“Rental Equipment”** means any goods and/or equipment to be supplied by the Supplier to CI on a rental basis;

1.16 **“Rental Payment”** means a payment to be made by CI in relation to the provision of Rental Equipment by the Supplier on a rental basis;

1.17 **“Rental Period”** means the period of time commencing when either:

- (a) the Supplier Group delivers Rental Equipment at the Designated Location; or
- (b) CI (or any third party authorised by CI) collects the Rental Equipment from the Supplier at the beginning of the duration of the rental (as applicable);

and terminating when either:

- (c) the Supplier collects the Rental Equipment at the end of the rental period; or
- (d) when the Rental Equipment is returned to the Supplier (as applicable);

1.18 **“Sale Goods”** means any goods and/or equipment to be sold to CI by the Supplier pursuant to an Order;

1.19 **“Services”** means any services to be provided to CI by the Supplier Group pursuant to an Order;

1.20 **“Special Conditions”** means the special terms and conditions that the parties have agreed to in relation to an Order (if any);

1.21 **“Subcontract”** means any contract between the Supplier and any party (other than CI or any employee of the Supplier) for the performance of any part of the Work;

1.22 **“Subcontractor”** means a sub-contractor of any tier who is performing work, its Affiliates, its directors, officers and employees (including without limitation any agency personnel);

1.23 **“Supplier”** means the entity or individual which has agreed with CI to supply goods and/or equipment on a sale and/or rental basis or to perform services in accordance with the Order;

1.24 **“Supplier Group”** means the Supplier, its subcontractors, its and their Affiliates, its and their respective directors, officers and employees (including without limitation agency personnel), but does not include any member of the CI Group;

1.25 **“Tax”** means any tax, duty or charge including without limitation any interest or penalty thereon which may be properly and lawfully assessed upon the Supplier or any Subcontractor by any appropriate governmental authority upon, or measured by or incidental to the performance of the Supplier's obligations under an Order;

1.26 **“Third Party”** means any individual, entity or party which is not a member of the CI Group or the Supplier Group; and

1.27 **“Work”** has the meaning given to that term in Clause 4.1(a).

2 ORDER

2.1 Upon the Supplier accepting a Purchase Order, a contract for the supply of the Works comes into existence between CI and the Supplier (“**Order**”), which contract incorporates the following documents (which, in the event of any inconsistency, prevail in the order listed below):

- (a) the Special Conditions (if any);
- (b) the Purchase Order (other than the Special Conditions); and
- (c) these Terms and Conditions.

2.2 No terms and conditions endorsed upon, delivered with or contained in any Supplier's quotation,



acknowledgement, acceptance of Purchase Order, invoice, specification or similar document will form part of the Order or vary these Terms and Conditions, except to the extent that they are expressly agreed to by the parties in writing.

2.3 The terms and conditions incorporated in an Order may not be varied unless expressly agreed to by both parties in writing.

3 CI'S OBLIGATIONS

CI must comply with the Supplier's reasonable operating instructions regarding the Sale Goods and/or the Rental Equipment which are advised to CI in writing prior to entering into this agreement. If any additional reasonable operating instructions are provided at the time of delivery of the Sale Goods and/or the Rental Equipment, CI may choose not to comply with them without penalty or terminate the agreement without liability if the instructions would cause detriment to CI.

4 SUPPLIER'S OBLIGATIONS

4.1 The Supplier must:

- (a) supply the Sale Goods, the Rental Equipment and/or the Services which are required to be supplied under each Order (such Sale Goods, Rental Equipment and Services being collectively referred to as the "Work");
- (b) ensure that the quantity and specification of the Sale Goods and the Rental Equipment which it supplies pursuant to an Order is in accordance with the terms of the Order;
- (c) ensure that the Sale Goods and/or the Rental Equipment supplied pursuant to an Order are suitable for any purpose specified in the Order;
- (d) ensure that the Sale Goods and/or the Rental Equipment supplied pursuant to an Order are free from defects, are of acceptable quality and workmanship and are fit for their intended purpose or suitable for their ordinary purpose where no purpose is specified in the Order;
- (e) carry out all the Work with due skill, care and diligence and with the skill to be expected of a reputable supplier experienced in the types of Work to be carried out under the Order; and
- (f) comply, at its own expense, with the requirements of all Applicable Laws, when performing its obligations under the Order.

4.2 The Supplier indemnifies and keeps indemnified the CI Group from and against any fines or penalties resulting from the Supplier's performance or non-performance of an Order to the extent caused by the negligence or breach of duty (whether statutory or otherwise) of the Supplier Group, provided that the Supplier's total liability under this indemnity shall not exceed 150% of the total amount of remuneration payable to the Supplier under the Order. The indemnity under this clause 4.2 will be reduced proportionately to the extent that the fines or penalties are caused by or contributed to by the negligence or breach of duty (whether statutory or otherwise) of the CI Group or any Third Party.

5 DEFECTS CORRECTION

5.1 If any Rental Equipment ceases to operate properly in CI's reasonable opinion during any Rental Period, the Supplier must at CI's sole option either:

- (a) repair the Rental Equipment; or
- (b) replace the Rental Equipment with alternative equipment which is of at least the equivalent specification.

5.2 CI shall have no liability to make payment of any Rental Payments in respect of any Rental Period when any Rental Equipment fails to operate properly in CI's reasonable opinion.



5.3 If the Supplier fails to promptly perform its obligations under Clause 5.1 within a reasonable time, CI may terminate the Order or part thereof with immediate effect and without any liability for costs associated with such termination.

5.4 The Supplier warrants and guarantees that it has performed and shall perform the Work in accordance with the provisions of the Order, and that all Work shall be free from defects.

5.5 If CI notifies the Supplier of any defect in the Sale Goods within the Defects Liability Period, the Supplier must at CI's sole option either:

- (a) repair the defective Sale Goods; or
- (b) replace the defective Sale Goods.

5.6 If CI notifies the Supplier of any defects in the Services which arise within 24 months of the completion of the Services to be performed pursuant to an Order, the Supplier must carry out all works necessary to correct any defects in the Services within a reasonable time.

5.7 The Supplier shall be responsible for all reasonable costs necessarily incurred in having improper operation and/or defects remedied in accordance with Clause 5.1, Clause 5.5 and/or Clause 5.6.

5.8 If any re-performance, rectification or replacement Work is performed pursuant to Clause 5.5 and/or Clause 5.6, Clause 5.5 shall apply respectively to such Work. The applicable Defects Liability Period or period of 24 months (as applicable) will commence on the date upon which such re-performance, rectification or replacement was completed in accordance with the Order.

5.9 CI may decide, acting reasonably, that the carrying out by the Supplier of Work necessary to correct defects will be prejudicial to its interests. In such cases, CI or its third party contractors may undertake the Supplier's responsibilities set out in this Clause 5. CI shall be entitled to recover from the Supplier all reasonable costs necessarily incurred to remedy such defect either directly from the Supplier or by deducting such costs from any monies due or which become due to the Supplier. CI shall use reasonable endeavours to mitigate such costs.

6 TAXES

6.1 The Supplier must pay Tax and must procure the due payment of Tax by any Subcontractor.

6.2 The Supplier indemnifies and keeps indemnified CI for any payments of Tax made by CI which are lawfully assessable on the Supplier or any Subcontractor (as applicable) together with any cost of compliance. CI shall be entitled to offset any amounts due from the Supplier under this indemnity from any monies due or which become due to the Supplier.

6.3 If GST is imposed on any supply made under or in connection with these Terms and Conditions, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with these Terms and Conditions, subject to the provision of a tax invoice by the supplier to the recipient.

7 INDEPENDENT CONTRACTOR

The Supplier is an independent contractor of CI and this Order is not intended to constitute or create a partnership, joint venture, employment relationship, agency, or other relationship between the parties, or authorise a party to assume or create any obligations on behalf of another party except as specifically permitted under this Order.

8 INDEMNITIES

8.1 Subject to Clause 9, the Supplier indemnifies, and keeps indemnified, CI Group from and against all Claims, in respect of:

- (a) loss of or damage to the property of the Supplier Group whether owned, hired, leased or otherwise provided by the Supplier Group arising from or relating to the performance



of any Order, except to the extent that such loss or damage is caused or contributed to by the negligence, breach of duty (whether statutory or otherwise), gross negligence, wilful misconduct or fraud of CI Group; and

(b) personal injury including without limitation death or disease to any person employed or provided by the Supplier Group arising from or relating to the performance of any Order, except to the extent that such injury is caused or contributed to by the negligence, breach of duty (whether statutory or otherwise), gross negligence, wilful misconduct or fraud of the CI Group; and

(c) subject to Clause 8.3, personal injury including without limitation death or disease or loss of or damage to the property of any Third Party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Supplier Group.

8.2 Subject to Clause 9, CI indemnifies, and keeps indemnified, the Supplier Group from and against all Claims in respect of:

(a) loss of or damage to the property of the CI Group arising from or related to the performance of any Order located at the worksite, except to the extent that such loss or damage is caused or contributed to by the negligence, breach of duty (whether statutory or otherwise), gross negligence, wilful misconduct or fraud of the Supplier Group; and

(b) personal injury including without limitation death or disease to any person employed or provided by the CI Group arising from or relating to the performance of any Order, except to the extent that such injury is caused or contributed to by the negligence, breach of duty (whether statutory or otherwise), gross negligence, wilful misconduct or fraud of the Supplier Group; and

(c) subject to Clause 8.3, personal injury including without limitation death or disease or loss of or damage to the property of any Third Party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the CI Group.

8.3 All indemnities given under this clause 8 (save for those under clauses 8.1(c) and 8.2(c) and clause 9) shall apply irrespective of cause but shall be reduced proportionally to the extent that the indemnified party's negligence, breach of duty (whether statutory or otherwise), gross negligence or wilful misconduct or fraud caused or contributed to the relevant Claim, and shall apply irrespective of any Claim in tort, under contract or otherwise at law.

8.4 The Supplier indemnifies, and keeps indemnified the CI Group from and against any claim of whatsoever nature arising from pollution or contamination arising from, relating to or in connection with the performance or non-performance of any Order, except to the extent that such pollution or contamination is caused or contributed to by the negligence, breach of duty (whether statutory or otherwise), gross negligence, wilful misconduct or fraud of the CI Group.

8.5 If either party becomes aware of any incident likely to give rise to a Claim under the above indemnities, they must notify the other party and both parties must co-operate fully in investigating the incident.

8.6 Nothing in this clause 8 limits or excludes any rights or remedies available under the ACL, and to the extent that any provision in this clause 8 is void or unenforceable under the ACL, it shall be read down or severed to the extent necessary to ensure compliance.

9 CONSEQUENTIAL LOSS

9.1 To the extent permitted by law, but subject to clause 9.2, neither party is liable to the other for any Consequential Loss arising from, relating to or in connection with the performance or non-performance of any Order, however caused or arising (whether in contract, tort including negligence, breach of statutory duty or otherwise).

9.2 Nothing in clause 9.1 limits or excludes a party's liability for:



- (a) wilful misconduct or fraud;
- (b) personal injury or death caused by negligence;
- (c) breach of confidentiality obligations; or
- (d) any other liability that cannot be excluded or limited by law.

10 INSURANCE

10.1 The Supplier must effect and maintain, at its own expense, during the period of performance of the Order, all appropriate policies of insurance including, but not limited to the following (each policy to note CI's interest as a 'Principal'):

- (a) workers' compensation insurance in compliance with all Applicable Laws to cover the Supplier and each of the Supplier's employees, including an extension for principal indemnity cover where relevant; and
- (b) public and products liability insurance in relation to legal liability for loss of, loss of use of, damage to or destruction of real or personal property, death or bodily injury, and disease and sickness in each case in an amount not less than an amount to \$20,000,000.00 for any one occurrence (or such lesser amount as may be agreed in writing between the parties if the required amount would be disproportionate to the nature, value, and risks of the Order), and unlimited in the aggregate; and
- (c) where relevant to the Work, comprehensive motor vehicle insurance to cover third party liability in an amount not less than \$20,000,000.00 for any one occurrence (or such lesser amount as may be agreed in writing between the parties if the required amount would be disproportionate to the nature, value, and risks of the Order)..

10.2 All insurances must be placed with reputable and substantial insurers authorized by the Australian Prudential Regulation Authority satisfactory to CI (acting reasonably), and must for all insurances (including without limitation insurances provided by Subcontractors) other than workers' compensation insurance be maintained at levels sufficient to cover the extent of the liabilities assumed by the Supplier under the Order, and to include CI, its customers, its and their respective Affiliates as additional assureds to the extent of the Supplier's liabilities under the Order.

10.3 The Supplier's insurances must be endorsed to provide that the insurers waive any rights of subrogation against CI, its customers, and its and their respective Affiliates, except to the extent that the relevant loss or damage arises from the gross negligence or wilful misconduct of the party seeking to rely on the waiver.

10.4 The Supplier must supply CI with evidence of such insurances on demand.

10.5 The Supplier must procure that Subcontractors are insured to appropriate levels as may be relevant to their work.

11 HEALTH, SAFETY AND ENVIRONMENT

The Supplier must comply with (and must ensure that all of its Subcontractors comply with) all applicable work health and safety and environmental laws and all of CI's reasonable work health, safety and environment rules and procedures which are provided to the Supplier in writing prior to acceptance of this Order. Any updates to such rules and procedures must be reasonable, notified to the Supplier in writing with at least 14 days' notice, and if the Supplier reasonably objects to such updates, the parties must negotiate in good faith.



12 TERMINATION

12.1 CI may terminate all or any part of the Work at any time by notice in writing to the Supplier:

- (a) subject to clause 12.6, where the Supplier is in default hereunder, at no liability to CI; or
- (b) at its discretion and without the Supplier being in default, by giving at least 30 days' notice in writing to the Supplier.

12.2 The Supplier may terminate all or any part of the Work at any time by notice in writing to CI at its discretion and without CI being in default hereunder, by giving at least 30 days' notice in writing to CI.

12.3 In the event of termination without default pursuant to clause 12.1(b) or clause 12.2:

- (a) if terminated by CI, CI must make payment of all costs reasonably incurred by the Supplier as a direct consequence of such termination of the Order or any part thereof, but such payment shall in no event exceed the Contract Price; or
- (b) if terminated by the Supplier, the Supplier must refund to CI any payments made in advance for Work not yet performed, less any costs reasonably incurred by the Supplier up to the date of termination,

and this shall be in full and final settlement of any payments due under the Order or that part thereof.

12.4 Either party may terminate an Order or any part thereof in the event of any of the following occurring in respect of the other party:

- (a) a bankruptcy notice or creditor's petition being presented;
- (b) a trustee in bankruptcy being appointed;
- (c) an application for winding up being presented;
- (d) an administrator, receiver, liquidator or other external controller being appointed, or
- (e) anything having substantially similar effect to any of the above.

12.5 If CI terminates an Order pursuant to clause 12.1(a) or clause 12.4 the following conditions will apply:

- (a) the Supplier shall cease to be entitled to receive any money or monies on account of the Order until the costs of completion and all other costs arising as a result of the Supplier's default or other events giving rise to the termination have been finally ascertained;
- (b) thereafter and subject to any deductions that may be made under the provisions of the Order, the Supplier shall be entitled to payment as set out in the Order for the part of the Work completed in accordance with the Order up to the date of termination; and
- (c) any additional costs reasonably incurred by CI as a direct result of the Supplier's default or other events giving rise to termination shall be recoverable from the Supplier. CI shall be entitled to offset any amounts due from the Supplier under this clause 12.5(c) from any monies due or which become due to the Supplier.

12.6 Termination of an Order shall be without prejudice to either party's obligations or rights which were in existence prior to termination.

12.7 Notwithstanding any other provision, if either party's default continues for a continuous period of 30 days after written notice from the other party specifying the default and requiring its remedy, the non-defaulting party may terminate the Order immediately by further written notice.

12.8 If the Supplier terminates an Order pursuant to clause 12.7 due to the default of CI or clause 12.4, CI must make payment of all costs reasonably incurred by the Supplier up to the date of



termination, including a reasonable allowance for profit on the unperformed portion of the Work, but such payment shall in no event exceed the Contract Price and this shall be in full and final settlement of any payments due under the Order or that part thereof.

13 **FORCE MAJEURE**

13.1 Neither CI nor the Supplier shall be responsible for any failure to fulfil any term or condition of the Order if and to the extent that fulfilment has been delayed or temporarily prevented by a force majeure occurrence as hereinafter defined, which has been notified in accordance with this Clause 13 and which is beyond the control and without the fault or negligence of the party affected and which, by the exercise of reasonable diligence, the said party is unable to provide against.

13.2 For the purposes of the Order only the following occurrences shall be force majeure:

- (a) riot, war (whether war be declared or not), acts of terrorism, civil war, insurrection of military or usurped power
- (b) earthquake, flood and/or other natural physical disaster, but excluding weather conditions as such, regardless of severity;
- (c) strikes at a national level or industrial disputes at a national level, but excluding any strike or industrial dispute which is specific to the Supplier or the delivery of the Work; and
- (d) confiscation or expropriation on the orders of any local or other duly constituted authority.

13.3 In the event of a force majeure occurrence, the party that is or may be delayed in performing the Order must notify the other party without delay giving the full particulars thereof and must use all reasonable endeavours to remedy the situation without delay.

13.4 Save as otherwise expressly provided in the Order, no payments of whatever nature shall be made in respect of a force majeure occurrence.

13.5 Following notification of a force majeure occurrence in accordance with Clause 13.3, CI and the Supplier shall meet without delay with a view to agreeing a mutually acceptable course of action to minimise any effects of such occurrence.

13.6 Notwithstanding any other provision, if a force majeure occurrence continues for a continuous period of 3 months, either party may terminate the Order by giving written notice to the other party.

14 **DELIVERY**

14.1 Delivery of any Sale Goods or any Rental Equipment to be supplied under an Order must be made to the location specified in the Order or such other alternative location agreed in writing between the parties. The parties acknowledge that the dates quoted for delivery of the Sale Goods, delivery of the Rental Equipment or completion of any Services are estimates only, unless otherwise expressly agreed in writing.

14.2 The type and route of shipment of any Sale Goods and/or any Rental Equipment shall be agreed in writing between the parties.

14.3 The Supplier shall be liable for all costs relating to packaging the Sale Goods and/or the Rental Equipment in a manner suitable to protect against damage during handling, transit and storage.

14.4 The cost of the delivery of the Sale Goods and/or the Rental Equipment shall be borne by the Supplier unless the parties agree otherwise in writing.

14.5 The Supplier shall be responsible for obtaining all and any necessary import and/or export licences or permits necessary for the entry of the Sale Goods and/or the Rental Equipment into Australia for their delivery to the Designated Location and must comply with all Applicable Laws in doing so. The Supplier shall be responsible for payment and/or discharge of any



customs duties, clearance charges, taxes (including GST), brokers' fees, withholding tax and other amounts payable in connection with the importation, exportation and delivery of the Sale Goods and/or the Rental Equipment.

14.6 If the Supplier fails to deliver the Sale Goods and/or the Rental Equipment within the dates specified in the Order, and such failure is material and not due to circumstances beyond the Supplier's reasonable control, CI shall be entitled to provide written notice to the Supplier requiring delivery within a reasonable additional period. If the Supplier fails to deliver within that additional period, CI may terminate the Order immediately by written notice. Upon such termination, CI shall not be liable for any further payments under the Order except for payment for any Sale Goods or Rental Equipment already delivered and accepted, or Services already completed, in accordance with the terms of the Order.

15 TITLE AND RISK

15.1 Title in any Sale Goods to be supplied hereunder to CI shall pass to CI on the earlier of:

- (a) upon delivery of the Sale Goods to the Designated Location; or
- (b) upon payment in full for the Sale Goods to the Supplier.

15.2 Notwithstanding clause 8, risk in any Sale Goods to be supplied hereunder shall pass to CI upon delivery of the Sale Goods to the Designated Location.

16 INTELLECTUAL PROPERTY RIGHTS

16.1 Where any potential patent or registrable right or other protected right in any country in the world results from:

- (a) developments by the Supplier Group which are based wholly on data, equipment, processes, substances and the like in the possession of the Supplier Group at the date of the Order or otherwise produced outside the Order; or
- (b) enhancements of or in the existing intellectual property rights of the Supplier Group; such rights shall vest in the Supplier or another company within the Supplier Group as the case may be.

16.2 Where any potential patent or registrable right or other protected right in any country in the world results from:

- (a) developments by the CI Group which are based wholly on data, equipment, processes, substances and the like in the possession of the CI Group at the date of the Order or otherwise produced outside the Order; or
- (b) enhancements of or in the existing intellectual property rights of the CI Group; such rights shall vest in CI or its Affiliates as the case may be.

16.3 Except as provided in Clauses 16.1 and 16.2, where any potential patent or registrable right or other protected right in any country in the world arises out of the Work and is invented during the term of the Order, such rights shall vest in CI.

16.4 The Supplier indemnifies and keeps indemnified the CI Group from all Claims arising out of, any actual or alleged infringement of any patent, copyright, trade mark, design or intellectual property right, to the extent that such infringement arises from the Supplier's performance of its obligations under the Order. This indemnity shall not apply to the extent the infringement is caused or contributed to by the CI Group's negligence, wilful misconduct, or breach of the Order. The Supplier's liability under this clause shall be limited to the total value of the Order.

16.5 The Supplier hereby assigns (and shall procure that each other member of the Supplier Group assigns) to CI, all right, title and interest in any copyright created pursuant to an Order, with effect from the date of creation. The Supplier (and shall procure that each other member of the Supplier Group) irrevocably and unconditionally consents to any acts or omissions by CI or its



Affiliates that might otherwise constitute an infringement of any moral rights arising anywhere in the world in all Work.

17 **ASSIGNMENT AND SUBCONTRACTING**

- 17.1 The Supplier agrees not to assign, novate or otherwise transfer any Order in whole or in part, except with the prior written consent of CI, which consent shall not be unreasonably withheld or delayed.
- 17.2 The Supplier must not subcontract the whole of the Work. The Supplier must not subcontract any part of the Work without the prior written approval of CI, which approval shall not be unreasonably withheld. Before entering into any Subcontract, CI must be given an adequate opportunity to review the form of Subcontract, the choice of Subcontractor, the part of the Work included in the Subcontract and any other relevant details requested by CI.
- 17.3 Each Subcontract must expressly provide for the Supplier's unconditional right of assignment or novation of the Subcontract to CI in the event that CI terminates the Order or any part of the Work.
- 17.4 No Subcontract shall bind or purport to bind the CI Group. The Supplier must however ensure that any Subcontractor must observe and comply with the provisions of the Order. The Supplier shall be responsible for all Work, acts, omissions and defaults of any Subcontractor as fully as if they were Work, acts, omissions or defaults of the Supplier.

18 **PAYMENT**

- 18.1 The Rental Period commences on the date specified in the Order and shall expire on the date specified in the Order, unless the parties agree to the contrary.
- 18.2 CI shall be liable for payment for the Services performed by or on behalf of the Supplier at the rate specified in the Order.
- 18.3 The Supplier must invoice CI on a monthly basis. Payment of undisputed amounts must be made within 30 days after receipt of the Supplier's invoice. Disputed items must be resolved without delay and any amounts agreed to be payable must then be settled promptly. Interest for the late payment of any correctly prepared invoices shall be charged at a rate that is equal to the then current Reserve Bank of Australia cash rate plus 5% per annum, calculated daily and compounded monthly until paid.
- 18.4 CI shall not be obliged to pay any Supplier invoice which is received after 12 months following completion of the Order.

19 **RECORDS AND AUDITS**

The Supplier must maintain complete and accurate records in connection with the Order and must retain all such records for at least 84 months after completion of the Order or such longer period as required by law. The CI Group may from time to time and at any time after the date of the Order until 84 months after performance of the Order, upon reasonable prior written notice to the Supplier, conduct an audit and inspection of all records held by the Supplier in connection with the specific Order (including without limitation compliance with clause 23.3).

20 **THIRD PARTY RIGHTS**

Except to the extent that the indemnified parties shall be entitled to enforce clauses 4.2, 8 and 16.4, no provision of any Order expressly purports to confer any benefit on any person who is not a party to any Order, and accordingly no such person shall have any right to enforce any term of any Order. Any Order may be rescinded, amended or varied by mutual consent of the parties without notice to or the consent of any third party even if, as a result, that third party's right to enforce a term of any Order may be varied or extinguished.

21 **CONFIDENTIALITY**



21.1 The Supplier must keep confidential and not (without the prior written consent of and in accordance with any conditions imposed by CI) disclose to any third party any information provided by the CI Group for a period of 5 years following completion of the performance of the Order, except as permitted under this clause 21 or as required for the performance of the Order.

21.2 Clause 21.1 does not apply:

- (a) to information that was in the public domain before it was provided to the Supplier or, after being provided, enters the public domain otherwise than as a result of a breach of this clause 21 by the Supplier Group; or
- (b) where disclosure is necessary to comply with a court order, administrative body of competent jurisdiction, applicable law or regulatory requirements; or
- (c) to information that was already lawfully in the Supplier's possession prior to disclosure by CI; or
- (d) to information that is independently developed by the Supplier without reference to information provided by the CI Group.

21.3 The Supplier must ensure that the provisions of this clause 21 are incorporated in any Subcontract and that the directors, officers, employees and agents of the Supplier and of any Subcontractors comply with the same.

22 ENTIRE AGREEMENT

An Order constitutes the entire agreement between the parties and supersedes all prior agreements, understandings, representations and commitments, whether oral or in writing between the parties concerning the subject matter. The right of CI to require strict performance will not be affected by any previous waiver or course of dealing. An Order will not be binding on a party unless in writing and signed by an authorised representative of each party.

23 GENERAL

23.1 No modifications to any Order shall be binding unless agreed in writing between the authorised representatives of both parties.

23.2 Should any provision of these Terms and Conditions be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability shall not affect the other provisions of these Terms and Conditions and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties agree to attempt to substitute, for any invalid or unenforceable provision, a valid and enforceable provision which achieves to the greatest possible extent, the economic legal and commercial objectives of the invalid or unenforceable provision.

23.3 The Supplier and CI must each respectively comply with all applicable laws, rules, regulations, decrees and/or official governmental orders of the Commonwealth of Australia, and any other applicable jurisdiction in relation to anti-corruption and anti-bribery requirement. Any breach of this obligation shall constitute a material breach of the Order.

23.4 The Supplier must not claim any lien or attachment on the Work or on any property of the CI Group at the worksite, except to the extent permitted by law where CI has failed to make payment due under the Order.

23.5 Without prejudice to Clause 23.4, the Supplier indemnifies and keeps indemnified CI from and against all liens or attachments by any Subcontractors in connection with or arising out of the Order, provided that such liens or attachments do not arise from CI's breach of the Order.

23.6 CI has the right to issue instructions to the Supplier at any time to make any variations to the Work which are within the capability and resources of the Supplier. The Supplier must



proceed promptly with such variations, subject to prior agreement between the parties on any adjustments to the Order where the variation materially impacts the Supplier's costs or schedules.

- 23.7 Any adjustment to the Contract Price resulting from any variation shall be valued at the appropriate rates and prices included in the Order or, in the absence of any appropriate rates and prices, a fair valuation shall be made.
- 23.8 The Supplier must grant the CI Group reasonable access to a worksite during normal business hours upon reasonable notice, subject to any rules and regulations in force at the worksite at the time of the visit and without unreasonably interfering with the Supplier's operations or safety requirements.

24 **LIMITATION OF LIABILITY**

- 24.1 Nothing in the Order shall limit or exclude either party's liability for:
 - (a) death or personal injury resulting from its negligence; or
 - (b) fraud or fraudulent misrepresentation.
- 24.2 Subject to Clause 24.1, the Supplier's total cumulative liability to CI (including without limitation any liability arising as a result of suspension and/or termination of the Order) arising out of or related to the performance of the Order, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall be limited to 150% of the total amount of remuneration payable to the Supplier under the Order.
- 24.3 The limitation set out in Clause 24.2 shall not apply to any liabilities assumed by the Supplier under Clauses 6, 9, 10, 14.5, 16 and 23.5 or to any indemnity given by the Supplier under Clause 8 and the limitation under Clause 24.2 shall not apply to any costs arising from any cause of action of CI notified to the Supplier before the date of completion of the Work.
- 24.4 Subject to Clause 24.1, any exclusion or limitation of liability under the Order shall exclude or limit such liability not only in contract but also in tort (including negligence) or breach of statutory duty or otherwise at law.

25 **SUSPENSION**

- 25.1 CI may, acting reasonably and to the extent permitted by law, by notice to the Supplier, suspend the Work or any part thereof to the extent detailed in the notice, for any of the following reasons:
 - (a) in the event of a material default on the part of the Supplier; or
 - (b) if the suspension is necessary for the proper execution or safety of the Work or persons; or
 - (c) to suit the convenience of CI, provided that such suspension shall not exceed 30 days in duration unless otherwise agreed by the parties.
- 25.2 Upon receipt of such notice, the Supplier must unless instructed otherwise:
 - (a) discontinue the Work or the part of the Work detailed in the notice on the date and to the extent specified, which shall be no earlier than 7 days after the date of the notice unless the suspension is for reasons under clause 25.1(a) or 25.1(b); and
 - (b) properly protect and secure the Work as required by CI.
- 25.3 Unless the suspension arises as a result of default on the part of the Supplier, or an event beyond the reasonable control of either party, the Supplier shall be reimbursed in accordance with the relevant provisions of the Order for the extra costs necessarily and reasonably incurred as a direct consequence of the suspension, provided that the Supplier must use its best endeavours to minimise such costs.
- 25.4 If suspension results from default on the part of the Supplier, any additional costs reasonably



incurred by CI as a direct result shall be recoverable by CI from the Supplier and CI may withhold any payment otherwise due to the Supplier during the period of suspension, provided that CI must first give the Supplier reasonable notice and opportunity to remedy the default where practicable.

- 25.5 CI may, by further notice, instruct the Supplier to resume the Work to the extent specified. If the suspension under clause 25.1(c) exceeds 30 days, the Supplier may, by notice to CI, terminate the Order and be entitled to payment for all Works provided up to the date of suspension, plus reimbursement of costs under clause 25.3.
- 25.6 In the event of any suspension, CI and the Supplier must meet at not more than 7 day intervals with a view to agreeing a mutually acceptable course of action during the suspension.

26 **DISPUTES AND GOVERNING LAW**

- 26.1 Any dispute arising out of or relating to the Order must first be referred to senior representatives of each party who must meet and attempt in good faith to resolve it within 7 days of written notice of the dispute.
- 26.2 If the dispute is not resolved within those 7 days, either party may commence legal proceedings.
- 26.3 The Order is governed by and construed according to the laws of Western Australia and where applicable the laws of the Commonwealth of Australia and all parties submit to the jurisdiction of the Courts of Western Australia.
- 26.4 Each party must continue performing its obligations under the Order despite any dispute

27 **ELECTRONIC EXECUTION AND COUNTERPARTS**

The parties agree that:

- (a) any Order, Special Conditions, Purchase Order, variation, notice or other document under or in connection with these Terms and Conditions or an Order (collectively, "**Documents**") may be executed and delivered electronically, including by way of electronic signature (whether via an electronic signature platform or otherwise);
- (b) electronic execution or acceptance of a Document (including by clicking "accept", "agree" or similar in an electronic system) has the same effect as execution or acceptance by handwritten signature; and
- (c) Documents may be executed in any number of counterparts (including electronic counterparts), all of which taken together constitute one instrument.