

PURCHASE ORDER TERMS AND CONDITIONS (GOODS AND SERVICES)

Zenith agrees to purchase the Goods and/or the Services from the Supplier and the Supplier agrees to sell the Goods and/or the Services to Zenith on these Terms and Conditions.

1. CONTRACT

- 1.1 The Purchase Order issued by Zenith and these Terms and Conditions together form the Contract between Zenith and the Supplier.

By accepting the Purchase Order and commencing the supply of the Goods or the performance of the Services, the Supplier agrees to be bound by the Contract.

- 1.2 The Purchase Order prevails in case of any inconsistency with these Terms and Conditions.

2. THE GOODS AND SERVICES

- 2.1 The Supplier must ensure that any Goods to be supplied by the Supplier pursuant to the Contract:

- 2.1.1 are new, ready for use, free from Defects and fit for purpose.
- 2.1.2 comply with all applicable Statutory requirements and Australian Standards at the minimum.
- 2.1.3 are accompanied by all applicable instructions and technical documentation, including operating and service manuals.
- 2.1.4 are supplied with a valid manufacturer's or supplier's warranty where the manufacturer or supplier offers such a warranty in respect of the Goods; and
- 2.1.5 are delivered in accordance with any specifications and/or timeframe referred to in the Purchase Order or otherwise provided by Zenith to the Supplier.

- 2.2 The Supplier must ensure that any services to be supplied by the Supplier pursuant to the Contract:

- 2.2.1 are performed to a high standard in accordance with industry best practice and, at a minimum, comply with any applicable Australian Standards; and

- 2.2.2 are performed in accordance with any specifications and/or timeframe referred to in the Purchase Order or otherwise provided by Zenith to the Supplier.

3. TIME FOR PERFORMANCE

- 3.1 Time is of the essence in respect of all obligations of the Supplier. The Supplier must immediately report to Zenith any actual or likely delay in supply of the Goods and/or the Services and its cause. The Supplier must take all reasonable steps to prevent delay, including but not limited to working overtime.

4. PACKAGING OF GOODS

- 4.1 The Supplier must:

- 4.1.1 suitably pack the Goods to avoid damage during loading, transit, delivery, unloading, or storage.
- 4.1.2 pack and transport the Goods in accordance with any applicable regulations and industry codes; and
- 4.1.3 clearly mark all packages of the Goods for delivery and the delivery documents for the Goods with the Contract number and ensure that the delivery documents accompany the Goods to the Delivery Address.

5. DELIVERY

- 5.1 The Supplier must obtain all necessary permits and licenses, which must be obtained in Supplier's name and are necessary for Supplier to perform its obligations.
- 5.2 The Supplier must deliver any of the Goods, and/or provide the Services, at the Delivery Address by the Delivery Date.
- 5.3 All Goods delivered must be accompanied by a delivery slip.
- 5.4 The Supplier must, when delivering the Goods or providing the Services:
 - 5.4.1 not interfere with Zenith's activities or the activities of any third party at

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the Delivery Address or at the Site;
and

- 5.4.2 comply with, and ensure that its Personnel comply with, all directions and orders given by or on behalf of Zenith at the Delivery Address or at the Site.

6. INSPECTION AND SAMPLING

- 6.1 The Supplier must conduct all inspections and tests in strict accordance with the requirements of the Contract.
- 6.2 The Supplier must ensure that Zenith has the opportunity to inspect, test, and witness any test of the Goods and/or the Services wherever they may be located. The Supplier must provide or ensure that its suppliers provide unrestricted access to reasonable facilities necessary for Zenith to carry out such inspections or witness such tests.
- 6.3 The Supplier is not relieved of any of its obligations under the Contract because Zenith has signed a delivery slip for Goods, inspected the Goods and/or the Services, or witnessed any testing prior to delivery of the Goods or supply of the Services.
- 6.4 Zenith shall be entitled to reject any of the Goods or the Services that do not comply with the Specification, the requirements of the Contract or any sample provided to Zenith.
- 6.5 Zenith is entitled to request samples of the Goods or components of the Goods in connection with the supply or use of the Goods, which must be supplied by the Supplier at its cost.

7. TECHNICAL MATERIAL

- 7.1 The Supplier must, without additional cost to Zenith, supply all required plans, drawings, specifications, manuals, certificates, instructions, fabrication reports, and the like in the form and at the times and in the numbers of copies specified in the Purchase Order or otherwise as reasonably required by Zenith.

8. PRICE

- 8.1 The price for the Goods and/or the Services is the price stated in the Purchase Order. Unless otherwise agreed and clearly stated in the Purchase Order, the price stated in the Purchase Order excludes GST but includes any other applicable taxes, customs, excise and import duties, tariffs, fees, levies, charges, costs, or expenses incurred by the Supplier,

including transport, packing, and insurance costs.

- 8.2 Unless otherwise agreed and clearly stated in the Purchase Order, the Price is fixed and firm, and not subject to adjustment due to currency fluctuation or any other reason.

9. PAYMENT

- 9.1 The Supplier must claim payment for the supply of the Goods and/or the Services by submitting invoices to Zenith, at the email address accountspayable@zenithenergy.com.au, in accordance with the invoicing schedule stated in the Purchase Order or, if no schedule is stated, monthly by the last Business Day of the month. Each invoice must:

- 9.1.1 be a tax invoice.
- 9.1.2 be correctly dated.
- 9.1.3 refer to the Contract.
- 9.1.4 list the particular Goods and/or Services supplied.
- 9.1.5 state that it is submitted under the Security of Payment Act; and
- 9.1.6 be supported by relevant records (including, in the case of Goods, a delivery slip for the Goods signed by Zenith), to enable Zenith to calculate and verify the amount stated in any Supplier invoice.

- 9.2 Compliance by the Supplier with clauses 9.1 and 9.5 is a condition precedent to the Supplier's entitlement to:

- 9.2.1 claim the amount stated in an invoice submitted by the Supplier to Zenith; or
- 9.2.2 be paid any amount in respect of an invoice submitted by the Supplier to Zenith.

- 9.3 If the Supplier submits an invoice earlier than the time for submission of that invoice, the invoice shall not be taken to have been submitted until that time.

- 9.4 Zenith shall not be liable to pay for the Goods and/or the Services until the Goods and/or the Services have been supplied in accordance with the Contract.

- 9.5 Zenith may at any time require by written notice that the Supplier provide Zenith with all additional relevant records to calculate and verify the amount stated in any Supplier invoice, by the time stated in the notice or, where no time is specified, within 48 hours. The

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Supplier must provide such information.

9.6 Subject to clauses 9.2 and 9.7, Zenith shall pay the Supplier the amount claimed in an invoice:

9.6.1 in accordance with the payment terms stated in the Purchase Order; or

9.6.2 if no terms are stated, within 30 days of the invoice being submitted: or

9.6.3 if the Security of Payment Act applies, within the time required by the Security of Payment Act.

9.7 If Zenith disputes any amount claimed in an invoice, Zenith shall:

9.7.1 make a determination of the amount payable.

9.7.2 within the time stated in these Terms and Conditions or as prescribed by the Security of Payment Act (where relevant), provide a payment schedule to the Supplier; and

9.7.3 pay amounts not in dispute in accordance with clause 9.6.

9.8 Any payment schedule issued by Zenith in accordance with clause 9.7.2 must:

9.8.1 identify the invoice to which the payment schedule relates.

9.8.2 state Zenith's determination, including, for each item of the invoice:

(a) the amount which is not disputed and therefore payable; and

(b) if applicable, the amount which is disputed and the reason(s) it is disputed.

9.9 Without limiting clause 9.7, Zenith may issue a revised payment schedule at any time correcting any omission or error discovered in any previous payment schedule or modifying any previous payment schedule issued by it, including as a result of the provision of information under clause 9.5.

9.10 No interest shall be payable on any amount due to the Supplier but remaining unpaid after the date upon which it should have been paid, except where interest is required to be payable pursuant to the Security of Payment Act, in which case interest will be paid at the rate prescribed by the Security of Payment Act.

9.11 Without prejudice to any other rights, Zenith may deduct from or set off against any monies

which may be, or become, payable to the Supplier any costs, expenses or damages which are due from the Supplier to Zenith, or which Zenith has incurred or reasonably considers it might in the future incur as a consequence of any act or omission of the Supplier, whether under or in connection with the Contract or any other agreement between Zenith and the Supplier.

9.12 Payment by Zenith of all or any part of a claim by the Supplier or any other amount to the Supplier is on account only and does not constitute approval of any Goods and/or Services or any other matter or thing in respect of which the payment is made.

10. TITLE AND RISK

10.1 Risk in the Goods passes to Zenith upon delivery to the Delivery Address.

10.2 Unencumbered legal title in the Goods passes to Zenith upon the earlier of payment or delivery to the Delivery Address.

10.3 The Supplier acknowledges that Zenith has a purchase money security interest in the Goods (and any proceeds derived from the Goods) and may register that security interest. The Supplier must provide all information and take all other steps required by Zenith to perfect that interest and effect that registration. The Supplier agrees to waive its rights under section 157 of the Personal Property Securities Act 2009 (Cth) (PPSA) and that, to the extent permitted by law, section 95, and chapter 4 of the PPSA shall not apply.

11. WARRANTIES

11.1 The Supplier represents and warrants that:

11.1.1 the Goods and/or the Services will be supplied in an efficient manner in accordance with all applicable laws, regulations, codes, and standards.

11.1.2 the Goods and/or the Services strictly comply with the Specifications.

11.1.3 the Goods and/or the Services are free from all Defects.

11.1.4 the Supplier will, and will ensure its Personnel will, exercise the standards of diligence, due care and skill normally exercised by a prudent and similarly qualified and competent supplier supplying equivalent goods and services.

11.1.5 the Goods and/or the Services are fit

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- for the purpose for which goods and services of the same kind are commonly supplied and for any other purpose described in the Contract.
- 11.1.6 all Personnel are appropriately qualified, competent, and skilled to perform the relevant part of the Services in respect of which they are engaged.
- 11.1.7 any equipment used on the Site by the Supplier will be in a safe working condition and comply with all Legislative Requirements and be operated by suitably qualified, licensed, and accredited Personnel.
- 11.1.8 all the Goods match the description of the Goods stated in the Purchase Order.
- 11.1.9 if the Supplier gave Zenith a sample of the Goods before Zenith issued the Contract, all the Goods correspond with the sample.
- 11.1.10 all the Goods are of new and of merchantable quality; and
- 11.1.11 all the Goods are completely owned by the Supplier and will be supplied to Zenith free of any third-party interests, liens, charges, or encumbrances.
- 11.2 The Supplier must immediately rectify or replace at Zenith's option and at the Supplier's sole cost any Defective Goods or Services discovered within 15 months after supply or 12 months after the Goods or the Services are first used or enter into the service for which they are purchased, whichever occurs first.
- 11.3 If Zenith reasonably considers that it is necessary to immediately rectify or replace Defective Goods or Services, then Zenith is not obliged to give the Supplier an opportunity to rectify or replace such Goods or Services before Zenith does so or causes a third party to do so. The Supplier must reimburse Zenith for the full cost of such replacement or rectification.
- 11.4 The Supplier's obligation to replace or rectify Defective Goods and/or Services is cumulative of other remedies available to Zenith.
- 11.5 The Supplier must ensure that Zenith has the full benefit of any manufacturer's warranties that may be applicable to the Goods or the Services and the Supplier must pursue any manufacturer's warranties on Zenith's behalf if Zenith so requests.
- 11.6 If the Supplier has replaced or rectified Defective Goods or Services, the rectified or replacement Goods or Services must be subject to the same warranty period as the original Goods or Services, from the date of rectification or replacement.
- 11.7 If Zenith elects to accept Defective Goods or Services on one occasion, such election does not bind Zenith to accept any other Defective Goods or Services and does not affect any of Zenith's other rights under the Contract in respect of those Defective Goods or Services.
- 11.8 Zenith may assign any or all of the above warranties to any of its clients or related companies and the Supplier consents to such assignment.
- 12. LIABILITY AND INDEMNITY**
- 12.1 The Supplier is liable for, indemnifies and will indemnify and keep Zenith indemnified against all Loss, and hereby releases and will release Zenith from any claim, action, suit, proceeding or demand, arising directly or indirectly out of the supply of the Goods and/or the Services, except to the extent caused or contributed to by any wrongful act or omission of Zenith.
- 12.2 To the extent permitted by Legislative Requirements, Zenith's liability to the Supplier arising out of or in connection with the Contract is limited to the Price.
- 12.3 Zenith shall not be liable to the Supplier for any consequential, indirect, or special loss, damage, or expense (including but not limited to loss of profit or revenue, loss of market or loss of contracts or damage to commercial reputation).
- 13. CANCELLATION**
- 13.1 In addition to its rights under clause 14, Zenith may cancel all or any part of the Contract at any time for any reason, in its sole and absolute discretion by written notice of cancellation to the Supplier.
- 13.2 Upon receipt of notice of cancellation, the Supplier must:
- 13.2.1 immediately cease performance of the Services to the extent specified in the cancellation notice.
- 13.2.2 immediately take steps to cease the procurement, manufacture, or delivery of the Goods to the extent specified in the cancellation notice.

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- 13.2.3 immediately take all possible action to mitigate any costs incurred by it as a result of the cancellation; and
- 13.2.4 provide Zenith with a detailed report in the form required by Zenith in relation to the Goods and the Services supplied prior to cancellation.
- 13.3 In the event of cancellation by Zenith under this clause:
- 13.3.1 the Supplier is entitled to payment of the Price for the Services supplied and the Goods delivered to Zenith prior to cancellation but not already paid for.
- 13.3.2 if the Goods have been shipped, but not delivered, at the time of cancellation Zenith may either:
- (a) accept the Goods when delivered, and pay the Price for them; or
- (b) return the Goods to the Supplier at Zenith's expense.
- 13.3.3 if the Goods have been procured, manufactured or fabricated in accordance with the Specification (but not shipped) at the time of cancellation, Zenith shall pay costs reasonably incurred by the Supplier prior to the date of the cancellation which is directly attributable to the placing of the Contract and which the Supplier is not able to recoup in some other way, provided that where Zenith pays for any such Goods, the Supplier shall, where required by Zenith, ship those Goods at Zenith's expense to the Delivery Address;
- 13.3.4 the Supplier is not entitled to the Price of the Goods or the Services or to any compensation for that cancellation other than as specified in clauses 13.3.1 to 13.3.3; and
- 13.3.5 the maximum compensation payable under clause 13.3.1 to 13.3.3 arising out of the cancellation will not exceed the Price of the relevant the Goods or the Services cancelled.

14. DEFAULT AND TERMINATION

- 14.1 To the extent permitted by law, Zenith may (by written notice to the Supplier) terminate the Contract or reduce the scope of the Goods

and/or Services to be provided thereunder, where the Supplier:

- 14.1.1 fails to remedy any breach of its obligations under the Contract within 5 Business Days of receiving written notice from Zenith requiring it to do so; or
- 14.1.2 is a corporation and becomes insolvent, or has an administrator, controller or liquidator appointed under the *Corporations Act 2001* (Cth), or has receivers or managers appointed to it; or
- 14.1.3 being an individual, is unable to pay its debts when they fall due or has a trustee in bankruptcy appointed; or
- 14.1.4 ceases or threatens to cease to carry on business,

in which case Zenith's liability to the Supplier shall be limited to payment of the Price for the Goods and the Services supplied prior to such termination.

- 14.2 If Zenith repudiates the Contract and the Supplier terminates the Contract, the Supplier shall be entitled to claim contract damages and shall not be entitled to claim on a quantum meruit basis.
- 14.3 Termination of the Contract does not affect or prejudice any rights of Zenith that have accrued prior to the termination. Zenith's exercise of its rights under this clause does not affect or limit its ability to exercise any other rights under the Contract, at law or in equity.

15. INSURANCE

- 15.1 The Supplier must prior to commencing the supply of the Goods and/ or Services and for as long as it has obligations outstanding in connection with the supply of the Goods or the Services effect and maintain:
- 15.1.1 The following insurances:
- (a) insurance to cover physical loss or damage to the Goods, including adequate transit insurance, for an amount not less than its full replacement value;
- (b) third party product and public liability insurance covering liability for loss of, damage to and loss of use of property, and death or bodily injury (including illness), of an amount not less

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- than AUD 10 million for any one occurrence, unlimited in the aggregate for public liability but limited in the aggregate to AUD 10 million for product liability;
- (c) statutory motor vehicle insurance which is compulsory under applicable Legal Requirements governing the use of registered motor vehicles;
 - (d) comprehensive motor insurance covering all mechanically propelled vehicles owned, operated, or controlled by the Supplier, for an amount of not less than AUD 20 million per occurrence and unlimited as to the number of occurrences;
 - (e) any registration and insurance required by Legal Requirements in respect of its employees, including compulsory worker's compensation insurance and employer's liability insurance; and
 - (f) any additional insurance required by Legislative Requirements or set out in the PO.
- 15.1.2 such insurances with a reputable insurer having a Standard & Poor's, Moodys, AM Best or equivalent ratings agency's long-term issuer credit rating of A minus or better, or otherwise as approved by Zenith in writing; and
- 15.1.3 all necessary insurance cover for all risks arising out of the performance of its obligations under the Contract.
- 15.2 The Supplier must ensure that its subcontractor's effect and maintain the relevant insurances required under this clause. The Supplier must not commit, and must ensure that its subcontractors do not commit, any act or omission which is in contravention of an insurance policy maintained by it or which may result in that insurance policy becoming void or voidable or which may result in the insurer refusing liability under the policy.
- 15.3 The Supplier must provide evidence satisfactory to Zenith of such insurance as a condition precedent to the Supplier being entitled to:
- 15.3.1 access the Site or Delivery Address.
 - 15.3.2 make a claim for payment for the supply of the Goods or the Services; and
 - 15.3.3 payment for the supply of the Goods or the Services.
- 15.4 If the Supplier does not comply with its obligations under clause 15.5, Zenith may effect and maintain the relevant insurance and pay the premiums and the amount of such payment shall be a debt due and payable by the Supplier to Zenith.
- 15.5 Insurance shall not limit the Supplier's liabilities or obligations under the Contract.
- 15.6 The Supplier must notify Zenith immediately if any incident occurs that is likely to give rise to a claim under any policy of insurance effected by the Supplier under the Contract and must keep Zenith fully informed of all subsequent developments regarding such claim.
- ## 16. PERSONNEL
- 16.1 Zenith may object to any Personnel who, in Zenith's opinion, do not have the appropriate qualifications, competency or skill to perform the relevant part of the Services in respect of which they are engaged, or who engage in misconduct. The Supplier must remove and immediately replace such Personnel with a suitable replacement upon being directed to do so by Zenith.
- ## 17. SITE
- 17.1 This clause 17 applies to the extent the Supplier or its Personnel are required to be on, or in the vicinity of, the Site.
- 17.2 The Supplier must:
- 17.2.1 comply, and ensure its Personnel comply, with all Legislative Requirements and all policies, standards, rules, and procedures in force from time to time, including in relation to WHSE at the Delivery Address or at the Site (where applicable).
 - 17.2.2 submit and amend any WHSE management plan(s) as reasonably required by Zenith.
 - 17.2.3 attend all induction courses as reasonably required by Zenith.
 - 17.2.4 permit Zenith to have access to the Supplier's premises, documentation, data and Personnel as necessary to enable Zenith to verify, monitor and

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audit the Supplier's compliance with this clause 17;

- 17.2.5 give Zenith not less than 7 days prior written notice before commencing the Services on the Site.

- 17.3 The Supplier acknowledges that it will not have exclusive possession of any part of the Site and will only be granted access to the Site to the extent necessary for the performance of the Services. The Supplier must cooperate and coordinate its performance of the Contract with other contractors and persons on the Site and coordinate its work with them.

18. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

- 18.1 The Supplier warrants that any design, equipment, methods of working and documentation including but not limited to specifications, drawings, reports, and publications used or produced by the Supplier in connection with the Services do not infringe any IP Right.
- 18.2 Zenith acknowledges that ownership of all IP Rights used or created under the Contract or in the provision of the Services (other than pre-existing IP Rights of the Supplier) is vested in Zenith. Zenith grants to the Supplier a non-exclusive, transferable, royalty free, irrevocable, and perpetual licence to use such IP Rights for the purpose of the Supplier supplying the Goods or the Services.
- 18.3 The Supplier indemnifies Zenith for all loss and expense incurred as a result of a breach of this clause.
- 18.4 If any of the Goods or Services (or their use) is agreed or held to infringe the rights (including IP Rights) of any third party, then without prejudice to the operation of the remainder of this clause 18, the Supplier must immediately at its own cost procure for Zenith the right to use or to continue to use the relevant Goods or Services. If the Supplier is unable to obtain such consent, the Supplier must, at its own cost and at Zenith's direction, either replace the infringing Goods or Services with Goods or Services that do not infringe or modify the infringing Goods or Services to avoid any infringement. The Supplier shall have no entitlement to make any claim arising out of compliance with this clause 18.4.
- 18.5 The Supplier acknowledges that the terms of the Contract are confidential and agrees not to

disclose any information regarding the Contract, its existence, or its terms to any third party (including by making any media release) without the express written permission of Zenith.

19. DISPUTE RESOLUTION

- 19.1 If a Dispute arises then either Party may serve the other Party with a Dispute Notice.
- 19.2 Within 5 Business Days of receipt of a Dispute Notice, representatives of the Parties having authority to bind the Parties shall confer in an attempt to resolve the Dispute, which conferral shall be confidential and without prejudice.
- 19.3 If a resolution or method of resolution has not been agreed within 15 Business Days of the service of the Dispute Notice, the General Manager (or their equivalent) of the Parties shall confer for the same purpose as the Parties' representatives, which conferral shall be confidential and without prejudice.

20. ARBITRATION

- 20.1 If the Dispute is not resolved within 35 days of the service of the Dispute Notice, then either Party may submit the Dispute to arbitration by giving written notice to the other Party (**Arbitration Notice**).
- 20.2 Each Party and each proposed arbitrator shall disclose to the other Party any business, personal or other relationship or affiliation that may exist between such Party and proposed arbitrator within 10 Business Days following delivery of the Arbitration Notice, and either Party may disapprove of such proposed arbitrator on the basis of such relationship or affiliation.
- 20.3 If the Parties have not agreed upon an arbitrator within 5 Business Days of the service of the Arbitration Notice, the arbitrator shall be the person appointed by Resolution Institute. The arbitrator must be listed in the Resolution Institute register of practising arbitrators and graded as Grade 1 or Grade 2.
- 20.4 The arbitration shall be conducted:
- 20.4.1 by a single arbitrator.
 - 20.4.2 in Perth, Western Australia; and
 - 20.4.3 in accordance with the then current Resolution Institute Arbitration Rules.
- 20.5 The arbitrator shall deliver detailed, written reasons for decision. The arbitrator's decision shall be final, non-appealable and binding upon the Parties and may be enforced in any court of

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competent jurisdiction.

20.6 Unless a Party is required to enforce the award of the arbitrator in a court of competent jurisdiction or otherwise required by legal authorities with competent jurisdiction, all materials, information, testimony and evidence produced or introduced during the arbitration proceedings, including all rulings and decisions rendered by the arbitrator, shall be kept confidential and shall not be disclosed without the prior written consent of the other Party.

20.7 Neither party may commence legal proceedings (except for urgent interlocutory relief) in relation to any Dispute unless the procedure referred to in clauses 19 and 20 has been strictly complied with.

20.8 Notwithstanding the existence of a dispute, the Supplier shall continue to carry out its obligations under the Contract.

21. SECURITY OF PAYMENT

21.1 The Parties agree that for the purposes of any adjudication under any Security of Payment Act in relation to the Contract or the Goods or the Services the authorised nominating authority shall be Resolution Institute or, if the Goods or the Services are to be supplied in Queensland, then the Registrar appointed under the *Building Industry Fairness (Security of Payment) Act 2017* (Qld).

22. MODERN SLAVERY

22.1 The Supplier must comply with, and ensure that its Personnel comply with, all Modern Slavery Laws.

22.2 The Supplier represents and warrants that, at the date of the Contract, neither the Supplier nor, to the best of the Supplier's knowledge after reasonable enquiry, any of its Personnel or any direct supplier or subcontractor engaged in connection with the Contract has been convicted of, or is subject to any current formal complaint, investigation, inquiry, proceeding or adverse finding relating to, Modern Slavery.

22.3 The Supplier must maintain reasonable processes to identify, assess, prevent, mitigate and remediate Modern Slavery risks in its operations and direct supply chain as they relate to the Contract, and must use reasonable endeavours not to engage any direct supplier or subcontractor in connection with the Contract where the Supplier knows, or ought reasonably to know, that the person is involved in Modern Slavery.

22.4 The Supplier must promptly notify Zenith of any actual or suspected Modern Slavery in connection with the Contract and provide any information reasonably requested by Zenith to comply with Modern Slavery Laws or any direction of a government authority relating to Modern Slavery.

23. ANTI-BRIBERY AND CORRUPTION

23.1 The Supplier must comply with, and ensure that its Personnel comply with, all Anti-Bribery Laws.

23.2 The Supplier must not, and must ensure that its Personnel do not, directly, or indirectly offer, promise, give, request, agree to receive or accept any bribe, kickback, secret commission, facilitation payment or other improper financial or non-financial advantage in connection with the Contract.

23.3 The Supplier must require any direct supplier or subcontractor engaged in connection with the Contract to comply with obligations equivalent to this clause.

23.4 The Supplier must promptly notify Zenith of any actual or suspected breach of this clause, or any request or demand for an improper advantage in connection with the Contract, and provide any information or assistance reasonably requested by Zenith in relation to that matter.

24. GENERAL

24.1 **Entire Agreement:** The Contract comprises the entire agreement between the Parties in respect of its subject matter and supersedes all prior agreements, quotation requests, understandings, representations, warranties, promises, statements, negotiations, letters, and documents in respect of its subject matter. Zenith shall have no obligations of good faith or fair dealing except as expressly stated in the Contract.

24.2 If at any time in relation to the Goods and/or the Services, the Supplier provides or refers to any terms or conditions not included in the Contract (including in quote forms) those terms and conditions shall not form part of or be incorporated into the Contract and are deemed to have been withdrawn in favour of the provisions of these Terms and Conditions.

24.3 Any terms that may have been attached or embodied in the Supplier's tender or offer or other correspondence (including quote forms and Contracts) whether before, at or after the

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acceptance of the Contract are not applicable.

- 24.4 **Severance:** If any provision of the Contract is determined to be void by any court, then that determination does not affect any other provision of the Contract, which otherwise remains in full force and effect.
- 24.5 **Waiver:** Zenith's failure or delay to exercise a power or right does not operate as a waiver of that power or right. No waiver by Zenith of any breach of a provision of the Contract is a waiver of any subsequent breach of that provision or any other provision. A waiver is not effective unless it is in writing, signed by Zenith.
- 24.6 **Variations:** An amendment or variation to the Contract is not effective unless it is in writing and signed by a duly authorised director of Zenith prior to the supply of additional or varied Goods and/or Services.
- 24.7 **Assignment:** The Supplier must not assign the Contract or any part of the Supplier's obligations under the Contract without the prior written consent of Zenith, which must not be unreasonably withheld. Zenith may assign the Contract or any part of it or any right or interest under the Contract, by notice to the Supplier.
- 24.8 **Novation:** If required by Zenith, the Supplier shall, when directed by Zenith, and without being entitled to compensation, promptly execute a deed of novation in a form that is provided by Zenith to the Supplier, for the novation of the Contract to the Client or the Client's nominee.
- 24.9 **Subcontracting:** The Supplier must not subcontract all or any of its obligations under the Contract without the prior written consent of Zenith, which must not be unreasonably withheld.
- 24.10 **Exclusion and apportionment:** The operation of the *United Nations Convention on Contracts for the International Sale of the Goods* and, to the extent not prohibited by law, Apportionment Legislation is excluded. The Supplier indemnifies Zenith against any claim, cost, expense or liability whatsoever arising out of or in connection with the Contract which are caused or contributed to by the Supplier's Personnel and for which the Supplier would have been liable to Zenith but for, or which Zenith is not able to recover from the Supplier because of, any apportionment under any Apportionment Legislation.
- 24.11 **Survival:** Clauses 12, 13, 14, 18, 19 and 20 shall

survive the cancellation, termination, repudiation, or expiry of the Contract for any reason.

- 24.12 **Governing Law:** The Contract is governed by and is to be interpreted in accordance with the laws in force in the State or Territory in which the Goods or the Services are supplied and the Parties submit exclusively to the jurisdiction of the courts in that State or Territory.
- 24.13 **Further Assurance:** Each Party shall promptly at its own cost do all things (including executing all documents) necessary or desirable to give full effect to the Contract.

25. DEFINITIONS

In these Terms and Conditions:

Anti-Bribery Laws means all Legislative Requirements relating to bribery, corruption, secret commissions, facilitation payments, or improper payments.

Apportionment Legislation means any legislation under which an apportionment may be made.

apportionment includes an apportionment of liability for damages, a limit on the amount of damages that may be awarded against a party or a determination of or judgment for the proportion of any damages that should be borne by a party.

Business Day means a day except Saturdays, Sundays, and public holidays in the State where the Site is located, or any other day excluded by the definition of "business day" in the Security of Payment Act.

Client means any entity that Zenith has entered into a head contract within relation to the supply of the Goods or the performance of the Services.

Contract comprises the Purchase Order and these Terms and Conditions.

Defect means any aspect of the Goods or the Services not in accordance with the Contract, or which is damaged, deficient, faulty, inadequate, or incomplete in design, performance, workmanship, quality, or makeup and **Defective** has an equivalent meaning.

Delivery Address means the address for delivery stated in the Purchase Order.

Delivery Date means the date for delivery of the Goods and performance of the Services stated in the Purchase Order.

Dispute means a dispute or difference arising

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out of or in connection with the Contract.

Dispute Notice means a written notice stating that it is issued under clause 19 and that outlines the nature of the dispute.

Goods means the goods (if any) and items specified in the Purchase Order including, without limitation, manuals, operating instructions, reports, and drawings.

GST has the meaning given to that expression in the GST Act.

GST Act means *A New Tax System (the Goods and the Services) Act 1999* (Cth).

IP Rights means all industrial and intellectual property rights whether protectable by statute, at common law or in equity, including all copyright and similar rights which may subsist or may hereafter subsist in works or any subject matter, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs (whether or not registrable), rights in relation to registered or unregistered trademarks, circuit layout designs and rights in relation to circuit layouts, but excludes non-assignable moral rights and similar non-assignable personal rights of authors and producers.

Legislative Requirements means any applicable statutes, regulations, by-laws, orders, industrial awards, workplace agreements, proclamations of the Commonwealth, certificates, licenses, consents, permits, approvals, codes, standards, and requirements of organisations.

Loss means any loss, damage, expense, payment, or liability, whether direct or indirect, and includes consequential loss, damage, or expense (including but not limited to loss of profit or revenue, loss of market or loss of contracts or damage to commercial reputation).

Modern Slavery means modern slavery as defined in the *Modern Slavery Act 2018* (Cth), as amended or replaced from time to time.

Party means Zenith or the Supplier, and a reference to Parties is a reference to both of them.

Personnel mean any person, consultant or subcontractor engaged by the Supplier to provide all or any part of the Services on behalf of the Supplier.

Price has the meaning given in clause 8.1.

Purchase Order means the written order

signed by or on behalf of Zenith for the supply of the Goods and/or the Services.

Security of Payment Act means if the location of the Site is:

- 25.1.1 Western Australia, then the *Building and Construction Industry (Security of Payment) Act 2021* (WA).
- 25.1.2 New South Wales, then the *Building and Construction Industry Security of Payment Act 1999* (NSW).
- 25.1.3 Queensland, then the *Building Industry Fairness (Security of Payment) Act 2017* (Qld).
- 25.1.4 Tasmania, then the *Building and Construction Industry Security of Payment Act 2009* (Tas).
- 25.1.5 Northern Territory, then the *Construction Contracts (Security of Payments) Act 2004* (NT).
- 25.1.6 Victoria, then the *Building and Construction Industry Security of Payment Act 2002* (Vic); or
- 25.1.7 South Australia, then the *Building and Construction Industry Security of Payment Act 2009* (SA),

each as amended from time to time.

Services means the services (if any) specified in the Purchase Order and includes all necessary minor incidental services.

Site means the project site to which the Goods or the Services relate.

Specification means all codes, standards, drawings and specifications applicable to the Contract, referred to in the Purchase Order, or otherwise incorporated into the Contract by reference and to be complied with by the Supplier.

Supplier means the supplier of the Services and/or Goods specified in the Purchase Order.

WHSE means work, health, safety, and environment.

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