

NORTHPARKES MINES PURCHASE ORDER GENERAL CONDITIONS FOR CONSULTANCY SERVICES

TABLE OF CONTENTS

1. Definitions and interpretation	
1.1 Definitions	11.5 Errors or exceptions in invoicing
1.2 Interpretation	11.6 Security of Payment
1.3 Joint Venture	
2. Evidence of Contract and precedence of documents	12. PPSA
2.1 Contract	12.1 Meaning of terms
2.2 Precedence of Contract documents	12.2 Further assurance
2.3 Entire agreement	12.3 PPSA exclusions
2.4 Amendment to be in writing	12.4 Survival of obligation
3. Accuracy of information	13. Deduction from payments
3.1 No representation by Company	13.1 Deductions
3.2 Consultant satisfied with accuracy	13.2 Deductions and withholdings required by law
3.3 No relief	13.3 Notification of withholding or deductions
3.4 Company not liable	13.4 Clause to survive termination
4. Performance by Consultant	14. No minimum purchase or exclusivity
4.1 Appointment of Consultant	14.1 No minimum purchase
4.2 Performance by Consultant	14.2 No exclusivity
4.3 Reports and Deliverables	
4.4 Additional comments or advice	15. Personnel
5. Consultant's warranties	15.1 Personnel
6. Term	15.2 Engagement of Personnel
7. Representatives	15.3 Company may object to Personnel
7.1 Performance	16. Health, safety and environment
7.2 Company Representative	16.1 Application of Clause
7.3 Consultant Representative	16.2 Consultant acknowledgement
7.4 Change in Representatives	16.3 Compliance with health, safety and environmental laws, policies and standards
8. Delivery, title and risk	16.4 Health, Safety and Environmental Management Plan
8.1 Delivery	16.5 Induction Courses
8.2 Title	16.6 Consultant to remain liable
8.3 Risk	16.7 Removal from Site
9. Consultancy Fee	16.8 Right of audit of the Consultant's performance
9.1 Consultancy Fee	16.9 Action by the Consultant
9.2 Consultancy Fee to be inclusive	17. Access to Site
10. Taxes	17.1 Access
10.1 Taxes (including Indirect Transaction Taxes)	17.2 Consultant obligations
10.2 Withholding Taxes	17.3 Right to deny access
10.3 Customs Duties and Excise Duties	17.4 No exclusive possession
10.4 Survival of Clause	18. Compliance with Company policies
10.5 US or Global contracts only	19. Laws
11. Payments to Consultant	19.1 Compliance with laws
11.1 Method of payment	19.2 Consequences of breach
11.2 Tax Invoices	20. Force Majeure
11.3 Payment of Tax Invoices	20.1 Notice of Force Majeure
11.4 Disputed Tax Invoices	20.2 Force Majeure notice
	20.3 Obligation to remedy and mitigate

- 21. Insurances**
 - 21.1 Consultant Insurances
 - 21.2 General and Product Liability Insurance
 - 21.3 Workers' Compensation and Employer's Liability Insurances
 - 21.4 Consultant's Plant and Equipment
 - 21.5 Goods in transit
 - 21.6 Motor Vehicle/Automobile Third Party Liability Insurance
 - 21.7 Professional Indemnity Insurance
 - 21.8 Marine Insurance
 - 21.9 Aviation Insurance
 - 21.10 Insurance terms
 - 21.11 Notification under Consultant's policy
 - 21.12 Sub-contractors' insurance
 - 21.13 Insurance claims and payment of insurance excess
 - 21.14 Survival of Clause
- 22. Indemnities**
 - 22.1 Acknowledgement
 - 22.2 Indemnity
 - 22.3 Exclusions
 - 22.4 Indemnity continuing
 - 22.5 No requirement for expense before enforcing indemnity right
- 23. Consequential Loss**
 - 23.1 Consequential Loss
 - 23.2 Exclusions
 - 23.3 Survival of clause
- 24. No fault termination**
 - 24.1 Termination Notice
 - 24.2 Consultant compensation
- 25. Material Default and Insolvency**
 - 25.1 Default Notice
 - 25.2 Termination for Material Default
 - 25.3 Insolvency
 - 25.4 Cost of completing the Consultancy Services
- 26. Termination generally**
 - 26.1 Obligations upon receipt of termination Notice
 - 26.2 Obligations upon termination
 - 26.3 Rights on Termination
- 27. Dispute Resolution**
 - 27.1 Dispute
 - 27.2 Dispute Representatives to seek resolution
 - 27.3 Performance of obligations during Dispute
 - 27.4 Urgent interlocutory relief
- 28. Confidentiality**
 - 28.1 Obligation of confidentiality
 - 28.2 Exceptions
 - 28.3 Breach of consent
 - 28.4 Indemnity
 - 28.5 Additional obligations
 - 28.6 Return of Confidential Information
 - 28.7 Permitted disclosure
 - 28.8 Survival of Clause
- 29. Public announcements**
- 30. Intellectual Property Rights in Consultancy Services**
 - 30.1 Consultant IP
 - 30.2 Contract IP
 - 30.3 Sub-licence of Consultant IP
 - 30.4 Northparkes IP
 - 30.5 Consultant warranty
 - 30.6 General Consultant obligations
 - 30.7 Survival of Clause
- 31. Third party Intellectual Property Rights**
 - 31.1 Third party Intellectual Property Rights
 - 31.2 Consultant Indemnity
 - 31.3 Exclusions
 - 31.4 Procurement of Intellectual Property Rights
 - 31.5 Procedure where Intellectual Property Rights cannot be procured
 - 31.6 Moral rights
- 32. Notices**
 - 32.1 Form of Notices
 - 32.2 Notices deemed given
 - 32.3 Service of documents
- 33. Modern Slavery**
 - 33.1 Modern Slavery warranties
 - 33.2 Modern Slavery reporting and audit
 - 33.3 Action by the Consultant
 - 33.4 Notice
 - 33.5 Termination
 - 33.6 Indemnity
 - 33.7 Confidentiality
 - 33.8 Survival of Clause
- 34. Compliance with the Code of Conduct Policy and Core Contractor compliance training**
 - 34.1 Northparkes Code of Conduct Policy
 - 34.2 Core Contractor compliance training
- 35. Costs**
 - 35.1 Each Party to bear its own costs
 - 35.2 Stamp duty
- 36. Status of Consultant**
 - 36.1 Independent contractor
 - 36.2 Partnership and joint venture Consultants
- 37. Subcontracting**
 - 37.1 Consent required
 - 37.2 Obligations survive sub-contract
 - 37.3 Status of Sub-contractor
- 38. Personal Data Protection**
 - 38.1 Personal Data
 - 38.2 Warranty
 - 38.3 Data protection
 - 38.4 Individual complaints
 - 38.5 Consultant indemnity
 - 38.6 Survival of Clause
- 39. Waiver**
- 40. Further assurances**

- 41. Severability**
 - 41.1 Severability
 - 41.2 Negotiation in good faith
- 42. Governing law**
- 43. Assignment**

1. Definitions and interpretation

1.1 Definitions

In these General Conditions and the Contract the following terms have the meanings set out below:

Associated Goods means the goods, materials, supplies, equipment or other items identified in the Purchase Order as forming part of the Consultancy Services.

Business Day means a day on which banks are open for business in the place in respect of which an obligation is to be performed or, in respect of Clause 32, the place to which a Notice is sent.

Change in Policies and Standards means a change:

- (a) in the Policies and Standards which are in existence as at the commencement of the Term;
- (b) which takes effect after the commencement of the Term;
- (c) which results in terms and conditions of the applicable Policies and Standards being materially more onerous on the Consultant than those previously contained in the Policies and Standards,

but does not include any change in the Policies and Standards which was caused or contributed to by any act or omission of the Consultant or its Personnel.

Claim means any action, suit, proceeding or demand of any kind.

Company is defined in the Purchase Order.

Company Competencies is defined in Clause 16.5(b).

Company Completion Costs is defined in Clause 25.4.

Company Induction Courses is defined in Clause 16.5(a).

Company Representative is, initially, the representative of the Company named in the Purchase Order or otherwise notified by the Company from time to time, and includes:

- (a) such other person as the Company may, in writing, substitute for that representative; or
- (b) any person authorised by that representative to perform any of that representative's powers, duties, discretions or authorities.

Company's Personal Data means the Personal Data that the Company transfers to the Consultant from time to time in connection with the Contract.

Confidential Information means the Contract, and any information (in whatever form) or Documentation of a confidential nature (or which the Consultant or its Personnel ought reasonably to know to be confidential) which relates to the business, affairs or activities of the Company (including in relation to the Consultancy Services) and which:

- (a) is disclosed to the Consultant or its Personnel by or on behalf of the Company;

- (b) is generated by the Consultant or its Personnel in performing the Consultancy Services; or

- (c) otherwise comes to the knowledge of the Consultant or its Personnel.

Consequential Loss means the following losses, regardless of whether such losses arise in contract (including under the Contract), in tort (including in negligence), under statute, in equity, by way of indemnity or otherwise:

- (a) loss of profit or anticipated profit;
- (b) loss of revenue or anticipated revenue;
- (c) loss of business opportunity or contract;
- (d) loss of or damage to goodwill, reputation, future reputation or publicity; or
- (e) cost of obtaining new financing or maintaining existing financing (including interest payments).

Consultancy Fee is defined in Clause 9.1.

Consultancy Services means the provision of the Consultant's knowledge, skills, experience, deductive and intuitive intellectual capabilities, inventiveness, physical work and any other services identified in the Purchase Order and will include the provision by the Consultant of the Associated Goods (if any) and/or Deliverables identified in the Purchase Order.

Consultant means the Party (as identified in the Purchase Order) responsible for providing the Consultancy Services.

Consultant Insurances is defined in Clause 21.1.

Consultant IP means the Consultant's Intellectual Property Rights which:

- (a) are in existence at the date of the Contract; or
- (b) come into existence after the date of the Contract otherwise than in connection with the Contract.

Consultant Representative means the representative of the Consultant named in the Purchase Order.

Contract is defined in Clause 2.1.

Contract IP means all Intellectual Property Rights (present or future) created, discovered or brought into existence by the Company or the Consultant as a result of, for the purpose of, or in connection with the provision of the Consultancy Services or the Contract (including all Intellectual Property Rights in anything developed by the Consultant in providing the Consultancy Services and any Intellectual Property Rights in the Documentation provided by the Company to the Consultant or provided by the Consultant to the Company) but excluding the Consultant IP unless stated otherwise in the Purchase Order.

Corporations Act means the *Corporations Act 2001* (Cth).

Customs Duties mean a government tax on imports or exports of Consultancy Services and include any applicable customs, import / export duties, fees, tariffs or similar analogous taxes.

Date of the Contract means the date of the Purchase Order.

Deducted Amount is defined in Clause 13.2(a).

Default Notice is defined in Clause 25.1.

Deliverables means those deliverables (if any), other than Reports, specified in the Purchase Order and otherwise agreed from time to time by the Parties in writing.

Delivery Date means the delivery date identified in the Purchase Order.

Delivery Point means the place identified in the Purchase Order for delivery of the Associated Goods (if any).

Dispute is defined in Clause 27.1.

Dispute Notice is defined in Clause 27.1.

Dispute Representative is defined in Clause 27.2(a).

Documentation includes plans, designs, drawings, calculations, engineering information, data, specifications, sketches, notes, samples, reports, maps, accounts, operating manuals, training manuals and any other material specified in the Contract (and whether embodied in tangible or electronic form).

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Excise Duties means any tax imposed, claimed, levied or assessed by, or payable to, any Government Agency in relation to the production or manufacture of Goods.

Force Majeure means an event or cause which is beyond the control of the Party claiming force majeure, not able to be overcome by the exercise of reasonable care, proper precautions and the consideration of reasonable alternatives with the intention of avoiding the effects of the force majeure by that Party, and which could not have been reasonably foreseen, and includes (subject to satisfying the requirements of the foregoing):

- (a) an act of God (other than adverse weather);
- (b) cyclones, fire, flood;
- (c) acts of war, acts of public enemies, terrorist acts, riots or civil commotions;
- (d) pandemics, epidemics; or
- (e) sanctions, acts of governments and authorities.

Government Agency means any government or governmental, semi-governmental, administrative, municipal, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Gross Negligence means such wanton and reckless conduct or omissions or reprehensible failure to take reasonable care with utter disregard for any harmful, foreseeable and avoidable consequences of that conduct.

HSE Policies and Standards is defined in Clause 16.3(a).

HSE Management Plan(s) is defined in Clause 16.4(a).

Indemnified Parties is defined in Clause 22.2(a).

Indirect Transaction Taxes mean any relevant value added tax (VAT), goods and services tax (GST), sales, use or consumption or similar tax or impost imposed, levied or assessed by any Government Agency or otherwise payable, but does not include any related penalty, fine or interest thereon.

Indirect Transaction Taxes Invoice or **Invoice** means an invoice in a form acceptable by applicable laws in the jurisdiction where the supply of the Consultancy Services takes place which clearly identifies the amount of Indirect Transaction Taxes payable and any applicable registration or collector numbers of the Consultant for purposes of Indirect Transaction Taxes, and which would enable the Company to claim a credit or reimbursement for Indirect Transaction Taxes payable under the invoice under any applicable laws.

Input Tax Credit means any entitlement to a credit for, or offset against, reduction in or refund of, Indirect Transaction Taxes, in relation to any acquisition or the receipt of any supply.

Insolvent, where reference is made to when a person becomes Insolvent, means if it:

- (a) being a company:
 - (i) stops or suspends, or threatens to stop or suspend, payment of all or a class of its debts or is otherwise unable to pay its debts when they fall due;
 - (ii) is (or states that it is) an insolvent under an administration or insolvency within the meaning of the Corporations Act;
 - (iii) is in liquidation or provisional liquidation;
 - (iv) is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to the Contract);
 - (v) must be presumed by a court to be insolvent by reason of section 459C(2)(b) or section 585 of the Corporations Act;
 - (vi) fails to comply with a statutory demand (within the meaning of section 459F(1) of the Corporations Act);
 - (vii) has an administrator appointed over all or any of its assets or undertaking, or any step preliminary to the appointment of an administrator is taken;
 - (viii) has a controller within the meaning of section 9 of the Corporations Act or similar officer appointed to all or any of its assets or undertaking; or
 - (ix) has an application or order made, proceedings commenced, a resolution passed or proposed in a notice of meeting, an application to a court made or other steps taken against or in respect of it (other than frivolous or vexatious applications, proceedings, notices or steps) for its winding up or dissolution or for it to enter into an arrangement, compromise or

composition with or assignment for the benefit of its creditors, or class of them or any of them; or

- (b) being an individual, commits an act of bankruptcy or makes a compromise or composition with or assignment of his property in favour of creditors.

Intellectual Property 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 registerable), 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.

Joint Venture means an unincorporated joint venture, if any, on behalf of which the Company is a Party to the Contract as agent.

Joint Venturers means, in respect of a Joint Venture, the participants in that Joint Venture.

Liabilities means damages, Claims, losses, liabilities, costs and expenses of any kind, and including any legal costs awarded against or incurred by a Party.

Modern Slavery means any activity, practice or conduct that would constitute an offence in relation to slavery, forced labour, involuntary servitude, debt bondage, human trafficking, and other slavery-like exploitation as prohibited under all applicable anti-slavery and human trafficking laws from time to time in force including but not limited to the *Modern Slavery Act 2018* (Cth) and the *Criminal Code Act 1995* (Cth), sch 1, divisions 270 and 271. For the avoidance of doubt, Modern Slavery includes any conditions or practices similar to those prohibited under those laws, statutes, regulations and codes.

Northparkes IP means the Intellectual Property Rights of the Company which:

- (a) are in existence at the Date of the Contract; or
- (b) come into existence after the Date of the Contract otherwise than in connection with the Contract.

Notice is defined in Clause 32.1.

Notifiable Data Breach occurs when there is either:

- (a) any loss of Personal Data; or
- (b) any unauthorised access to or disclosure of Personal Data,

and a reasonable person would believe that the loss or unauthorised disclosure is likely to cause serious harm to the individual to whom that Personal Data relates.

Party means a party to the Contract.

Payment Act means the *Building and Construction Industry Security of Payment Act 1999* (NSW).

Personal Data means information relating to identifiable individuals and includes (but is not limited to) all information relating to individuals that

is protected by privacy or data protection laws in the country where:

- (a) the individuals are located; or
- (b) the data relating to those individuals is processed,

and includes 'personal information' as that term is defined in the Privacy Act.

Personnel means:

- (a) in relation to the Consultant, each of the Consultant's personnel named in the Purchase Order and any additional personnel involved directly or indirectly in the performance of the Consultancy Services; and
- (b) in relation to the Company, any of its past or present officers, employees, agents (including, for the purposes of Clause 22, the entity entering into the Contract for and on behalf of Joint Venturers (if applicable) and that entity's past or present officers, employees, agents or representatives) or representatives.

Policies and Standards means any policies, procedures, protocols, training modules, work instructions, guidance notes, forms, templates, manuals or specifications of the Company notified or made available to the Consultant by the Company or referred to in the Contract including the HSE Policies and Standards.

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

Privacy Act means the *Privacy Act 1988* (Cth).

Purchase Order means an individual purchase order issued by the Company to the Consultant in respect of the performance of Consultancy Services which shall be subject to the terms of the Contract.

Related Body Corporate has the meaning given in the Corporations Act.

Reports means those reports (if any) specified in the Purchase Order and otherwise agreed from time to time by the Parties in writing in accordance with Clause 4.

Site means the Company's premises identified in the Purchase Order.

Taxes mean any and all taxes, including, without limitation, Indirect Transaction Taxes, excise, stamp, documentary, customs, import/export, payroll, personal, property, real property, interest equalisation, business, occupation, turnover, income, corporation, capital, profits, gains, gross receipts, or other taxes, fees, withholdings, imposts, levies, duties or other charges of any nature whatsoever or whensoever (other than taxes on the Company's net income), together with any penalties, fines or interest thereon or similar additions thereto, imposed, levied or assessed by any Government Agency or otherwise payable, on or in respect of the supply of the Consultancy Services hereunder.

Tax Invoice or Invoice means an invoice or other document, including without limit a credit note or debit note, in a form that is valid under the applicable law of the jurisdiction in which a liability to pay Indirect Transaction Taxes is imposed, claimed, levied or assessed, which must be held by

a person for that person to be able to claim Input Tax Credits.

Tender means the Consultant's offer or counter-offer in writing to perform the Consultancy Services whether described as a "tender" or "proposal" or otherwise.

Term is defined in Clause 6.

Wilful Misconduct means any act or omission which was deliberate and wrongful, including any deliberate or purposeful breach of an express term of this Contract, with reckless disregard or wanton indifference as to the likely consequences.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) The meaning of general words is not limited by specific examples introduced by **including** or **for example**.
- (e) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (f) A reference to a person or a Party includes a reference to that person's or Party's executors, administrators, successors, substitutes (including persons taking by way of novation), assigns (in the case of a person) and permitted assigns (in the case of a Party).
- (g) A reference to a Clause is a reference to a clause of these General Conditions.
- (h) A reference to an Act or legislation, or to a provision of an Act or legislation, includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to *use* in the context of dealing with Intellectual Property Rights includes using, exploiting, copying, adapting, creating derivative works, developing, modifying, disclosing and communications.
- (j) A reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not in writing.
- (k) Where it is provided that the Consultant will perform any act or provide any thing at its cost, this means the Consultant will not be entitled to any additional compensation for such act or thing and the cost will be deemed to be included in the Consultancy Fee.

1.3 Joint Venture

If the Purchase Order specifies that the Company enters into, and is a party to, the Contract for and on behalf of Joint Venturers under a Joint Venture, then the following paragraphs apply:

- (a) The Company is a party to the Contract as agent severally for each of the Joint Venturers

in their respective percentage interests in the Joint Venture.

- (b) The Parties acknowledge and agree that:
 - (i) the obligations and liabilities of the Joint Venturers to the Consultant are several only (and will not be, nor be construed to be, either joint or joint and several), in accordance with the Joint Venturer's respective percentage interest from time to time in the Joint Venture;
 - (ii) the percentage interests of the Joint Venturers, and the identity and number of Joint Venturers, may change from time to time and the Company may at any time without the consent of the Consultant assign its rights and obligations under the Contract to an incoming agent or manager on behalf of the Joint Venturers;
 - (iii) the rights and remedies in and under the Contract may be exercised by the Company for and on behalf of the Joint Venturers;
 - (iv) the benefit of the respective duties and obligations of the Consultant under the Contract are deemed to enure to each of the Joint Venturers, and the Company is severally authorised to enforce those duties and obligations on the Joint Venturers' behalf;
 - (v) all Notices to be given or made pursuant to the Contract relating to the Joint Venture may be given or made (as the case requires) by the Company on behalf of the Joint Venturers or any one or more of them;
 - (vi) in dealing with the Joint Venturers, for all purposes under or in connection with the Contract (including, for the avoidance of doubt, any Purchase Order), the Consultant must deal only with the Company; and
 - (vii) the Company will not be liable for the failure of the Joint Venturers (or any one or more of them) to perform its or their obligations under the Contract.

2. Evidence of Contract and precedence of documents

2.1 Contract

The **Contract** consists of the following documents:

- (a) the Purchase Order;
- (b) these General Conditions; and

any other document which is attached to, or incorporated by reference in, the Purchase Order or these General Conditions.

2.2 Precedence of Contract documents

If there is any conflict or inconsistency between the documents constituting the Contract, unless otherwise provided, the documents will rank in order of precedence in accordance with the order in which they are listed in Clause 2.1.

2.3 Entire agreement

- (a) The Contract contains the entire agreement between the Company and the Consultant with respect to its subject matter and supersedes all prior written agreements between the Parties in this regard.
- (b) No terms or conditions submitted by either party that are in addition to, different from or inconsistent with those contained in the Contract including, without limitation, the Consultant's printed terms and conditions, and any terms and conditions contained in any Consultant's quotation, invoice, order acknowledgment, confirmation, acceptance, bill of lading or other instrument, shall be binding upon either Party unless specifically and expressly agreed to in a writing signed by duly authorised representatives of both Parties.

2.4 Amendment to be in writing

No amendment or variation of the Contract is valid or binding on a Party unless made in writing and signed by the Consultant and the Company.

3. Accuracy of information

3.1 No representation by Company

- (a) The Company has endeavoured and will continue to endeavour to ensure the accuracy of any information provided to, or obtained by, the Consultant or its Personnel through a conducted Site visit, a pre-bid conference or otherwise obtained by the Consultant or its Personnel from or on behalf of the Company. However, the Company does not warrant or guarantee the accuracy, sufficiency or otherwise of such information and disclaims all responsibility for it, except to the extent agreed in this Contract.
- (b) The Parties acknowledge that any information so provided to, or obtained by, the Consultant or its Personnel:
 - (i) is not information upon which the Consultant reasonably ought to rely upon unless it is provided to the Consultant by the Company specifically in contemplation of this Contract or for the purposes of the Consultancy Services the subject of this Contract; and
 - (ii) is for the convenience of the Consultant only and does not form part of the Contract unless otherwise expressly agreed by the Parties in writing.

3.2 Consultant satisfied with accuracy

- (a) The Consultant agrees that it has reviewed and considered all information given by, or obtained from, the Company for any obvious or reasonably apparent inaccuracy, incompleteness, error, ambiguity or other deficiency in the information.
- (b) The Consultant agrees that it has satisfied itself as to the accuracy of any information given to it at any time prior to the execution of the Contract or otherwise, satisfied itself as to any obvious or reasonably apparent,

inaccuracy, incompleteness, error, ambiguity or other deficiency in the information, and subject to the terms of this Contract the Consultant accepts full responsibility for any use by it of such information including, without limitation, responsibility for any conclusions drawn by it from such information.

3.3 No relief

Failure by the Consultant to do all or any of the things it is deemed to have done under this Clause 3 will not relieve the Consultant from any of its obligations under the Contract.

3.4 Company not liable

- (a) Except as provided in Clause 3.4(b), the Company is not liable for any Liabilities incurred or suffered by the Consultant as a result of its reliance in any way upon any information given to it by or otherwise obtained from the Company.
- (b) Where it is expressly agreed in writing that information provided by the Company is to form part of the Contract or where the Company has provided information to the Consultant in contemplation of this Contract and expressly stating the extent to which the Consultant may rely upon such information (or any part of it) given to it by the Company, the parties agree that:
 - (i) the Consultant, provided it has done all of the things it is deemed to have done under this Clause 3, may rely upon such information (but not including information contained in appendices or other documents incorporated only by reference) for the purposes of providing the Consultancy Services and to the extent stated in the Contract or otherwise stated by the Company Representative; and
 - (ii) if the Consultant has relied on such information for that purpose and there is a material inaccuracy or error in the information, then the Consultant must promptly give a written notice to the Company Representative containing:
 - (A) a description of the information given to the Consultant by the Company;
 - (B) details of the inaccuracy or error in the information;
 - (C) the manner in which the Consultant has relied upon the information; and
 - (D) an estimate of the Consultant's increased time and costs in performing the Consultancy Services caused by its reliance upon the information; and
 - (iii) if a notice is given by the Consultant which complies with Clause 3.4(b)(ii), the Consultant will be entitled to a reasonable adjustment to the Contract Price to reflect the Consultant's increased costs in performing the Consultancy Services but the Consultant has no other Claim and the

Company is not otherwise liable to the Consultant in connection with the information.

4. Performance by Consultant

4.1 Appointment of Consultant

The Company appoints the Consultant as a consultant to provide the Consultancy Services to the Company for the Term in accordance with the terms and conditions of the Contract.

4.2 Performance by Consultant

The Consultant must perform the Consultancy Services in accordance with the terms of the Contract and in consideration of the payment of the Consultancy Fee by the Company.

4.3 Reports and Deliverables

The Consultant must deliver to the Company each of the Reports and Deliverables identified in the Purchase Order by the relevant Delivery Date or such other Reports and Deliverables as otherwise agreed from time to time between the Company Representative and the Consultant Representative, by the deadline specified in those documents or as otherwise agreed.

4.4 Additional comments or advice

Subsequent to the delivery of a Report or Deliverable, the Company may request that the Consultant provide reasonable explanatory comments or advice (whether verbally or in writing) relating to the Reports and Deliverables provided by the Consultant and the Consultant must provide such comments or advice within a reasonable time of the Company's request.

5. Consultant's warranties

In addition to the warranties contained elsewhere in the Contract, including without limitation in Clauses 30.5, and 31.1, the Consultant warrants that:

- (a) all of the Consultancy Services will be performed in a professional manner consistent with industry and/or professional best practice and carried out in an efficient manner in accordance with all applicable laws, regulations and/or Government Agency requirements;
- (b) the Consultant and its Personnel will exercise the standards of diligence, skill and care normally exercised by a similarly qualified and competent person in the performance of comparable services;
- (c) where applicable, any equipment used on-Site by the Consultant will be in safe working condition, will comply with all applicable laws, regulations and Government Agency requirements and will be operated by suitably qualified and competent Personnel, to the reasonable satisfaction of the Company;
- (d) where any Goods are provided as part of the Consultancy Services, that they will be of merchantable quality, free from defects, fit for purpose and the Company will receive title to

the Goods free of any charge or Encumbrance;

- (e) it will obtain at its cost all usual trade warranties for the Goods and provide copies of those warranties to the Company, and on completion of the Consultancy Services, it will assign the benefit of such warranties to the Company; and
- (f) all information and materials forming part of the Tender (if any) are true and correct in every respect and are not misleading or deceptive and the Consultant has not withheld from the Company any information concerning the Consultant, its experience or expertise which might reasonably be supposed to be material to the Company in determining whether or not to engage the Consultant to provide the Consultancy Services or the price at which or the terms on which the Company would be prepared to engage the Consultant to provide the Consultancy Services.

6. Term

The Contract will commence on the earlier of:

- (a) the date of acceptance of the Purchase Order by the Consultant; or
- (b) the date the Consultant commences to perform the Consultancy Services,

unless the Purchase Order is withdrawn by the Company, and will remain in force, unless terminated earlier in accordance with the Contract, until the completion by the Consultant of all of its obligations under the Contract (**Term**).

7. Representatives

7.1 Performance

The Consultancy Services must be performed by the Consultant in accordance with the Contract and in accordance with any directions of the Company Representative pursuant to the provisions of the Contract.

7.2 Company Representative

- (a) The Company Representative is responsible for giving directions for and on behalf of the Company as provided in the Contract.
- (b) Directions given to the Consultant by any person other than the Company Representative will not bind the Company unless ratified by the Company Representative.

7.3 Consultant Representative

- (a) The Consultant Representative is responsible for liaising with the Company Representative in relation to any of the matters referred to in Clause 7.2, and the Consultant Representative will have full power to legally bind the Consultant in respect of all matters arising out of the Contract.
- (b) Any direction which the Company Representative gives to a Consultant Representative is deemed to have been given

to the Consultant for and on behalf of the Company and the Consultant must comply with that direction accordingly. Any communication given, or document signed, by a Consultant Representative is deemed to have been given or signed by the Consultant and will bind the Consultant. Matters within the knowledge of a Consultant Representative are deemed to be within the knowledge of the Consultant.

7.4 Change in Representatives

Either Party may from time to time revoke the appointment of its representative and appoint another person as its representative and that Party must give Notice of such revocation and appointment to the other Party.

8. Delivery, title and risk

8.1 Delivery

The Consultant must deliver the Associated Goods (if any) to the Delivery Point on or before the Delivery Date.

8.2 Title

Full unencumbered title to each Associated Good will pass to the Company upon the earlier of:

- (a) the Company making payment in full to the Consultant for that Associated Good; or
- (b) the Associated Good being delivered to the Delivery Point and accepted by the Company.

8.3 Risk

Risk in each Associated Good will remain with the Consultant until it has been delivered to the Delivery Point and accepted by the Company.

9. Consultancy Fee

9.1 Consultancy Fee

The **Consultancy Fee** is the aggregate amount payable (excluding Indirect Transaction Taxes payable in accordance with Clause 10) by the Company to the Consultant in relation to the Consultancy Services.

9.2 Consultancy Fee to be inclusive

All expenses incurred by the Consultant in relation to the provision of the Consultancy Services, including, without limitation, travel expenses and subsistence expenses, will be deemed to be included in the Consultancy Fee and the Consultancy Fee includes any applicable Taxes.

10. Taxes

10.1 Taxes (including Indirect Transaction Taxes)

- (a) All amounts payable under or in connection with this Contract, (including any amount by way of reimbursement, indemnity, damages or otherwise) are:
 - (i) inclusive of Taxes; but

- (ii) exclusive of Indirect Transaction Taxes, unless expressed otherwise.

- (b) If Indirect Transaction Taxes are payable on a supply, transfer or sale (**supply**) made under or in connection with this Contract, and if the party making that supply (**supplier**) is liable, under the applicable law, to pay, or collect and remit, the Indirect Transaction Taxes to the appropriate Government Agency, the party receiving that supply (**recipient**) shall pay to the supplier an additional amount equal to the Indirect Transaction Taxes payable by the supplier in respect of the supply. The recipient must pay the additional amount to the supplier on the date when the Consultancy Fee (or part thereof) is provided to the supplier (subject to a Tax Invoice being received prior to payment date). This sub-Clause does not apply to the extent that the consideration for the supply is expressed to be inclusive of Indirect Transaction Taxes.

- (c) The supplier shall ensure that each invoice it presents to the recipient in respect of any Indirect Transaction Taxes is a Tax Invoice. If the supplier fails to provide the recipient with a Tax Invoice within the time period required by applicable law of that jurisdiction, the recipient may withhold payment of the amount payable on account of Indirect Transaction Taxes, either pursuant to Clause 10.1(b) or as part of the consideration where that consideration is expressed to be inclusive of Indirect Transaction Taxes, until such time as a Tax Invoice is received.

- (d) Any reference in:

- (i) this Contract to a cost, expense or other liability (**Cost**) incurred by a party; or
- (ii) the calculation of consideration or of any indemnity, reimbursement or similar amount to a Cost,

must exclude the amount of any Input Tax Credit entitlement of that party in relation to that Cost.

- (e) Each Party will take all reasonable steps to cooperate with and provide all necessary assistance to the other Party to ensure so far as possible that the Taxes treatment is accepted by the relevant Government Agency, including the provision of invoices, proof of payment, proof of source and/or origination and other documentation for this purpose.

10.2 Withholding Taxes

- (a) If a party (**payer**) is required by any applicable law to make a deduction or withholding from a payment to the other party (**payee**) for or on account of any Taxes, the payer is entitled to make that deduction or withholding unless the payee provides the payer with valid documentation (received prior to the date when the payment is to be made) showing to the satisfaction of the payer that an exemption applies. If the payer is required by law to deduct or withhold, then the payer shall use its best endeavours to furnish the payee with all receipts, proof of payment and other relevant documentation for all deductions and withholding Taxes so paid to the relevant

Government Agency. For the avoidance of doubt, the payer will not be liable to pay any amount to the payee on account of an amount deducted or withheld in accordance with this Clause 10.

- (b) Where a payment is made without a deduction or withholding for or on account of Taxes and such a deduction or withholding was required by any applicable law, the payee shall reimburse the payer for, or otherwise pay to the payer, the amount that should have been withheld or deducted within 14 days of receiving an official receipt (or certified copy) or other documentation evidencing the amount that was required to have been withheld or deducted.

10.3 Customs Duties and Excise Duties

- (a) Where the recipient elects to acquire goods and the supplier is the importer of record, the supplier will:
 - (i) be responsible for, and remit payment of all Customs Duties assessed by or payable to any Government Agency as well as any other foreign shipping charges; and
 - (ii) use its best endeavours to ensure that any goods are imported free of Customs Duties including, without limit, through the use of applicable bilateral free trade agreements (or the equivalent).
- (b) The supplier will, at the recipient's request, provide the recipient with all information and documentation necessary for the recipient to make or assess the supplier's entitlement to make, in accordance with any applicable laws, applications or certifications for:
 - (i) a drawback, refund, rebate, remission or other reduction of Customs Duties or Excise Duties; and
 - (ii) Customs Duties or Excise Duties concessions, including, without limit, exemptions, reductions, duty-free access and preferential rates of duty available under bilateral free trade agreements (or the equivalent).
- (c) The supplier must make any application or certification requested by the recipient in a form that is satisfactory to the recipient. Where any such application or certification is successful, the supplier will pass on to the recipient the full economic benefit of the exemption, reduction, concession, drawback, refund, rebate or remission of Customs Duty or Excise Duty, as appropriate, by way of a reduction in the Consultancy Fees. This Clause applies regardless of the shipping, insurance or freight terms used.

10.4 Survival of Clause

This Clause 10 will continue to apply after expiration or termination of this Contract.

10.5 US or Global contracts only

- (a) If, in respect of a Tax audit or a levied Tax assessment, the appropriate Government Agency seeks payment of Indirect

Transaction Taxes from the supplier for which the supplier seeks reimbursement from the recipient, then, unless the supplier notifies the recipient in writing of the Indirect Transaction Taxes payable at least 30 days prior to the expiration date of the right to appeal the imposition thereof, any reimbursement by the recipient will be at its sole discretion.

- (b) If the recipient deems that any Indirect Transaction Taxes paid to the supplier under Clause 10.1(b) have been inappropriately levied or that an exemption applies, the recipient may, by written Notice to the supplier, require the supplier to contest such Indirect Transaction Taxes at the recipient's sole expense and subject to its direction and control.
- (c) The supplier shall do all things reasonably necessary to ensure that the recipient remains eligible for any exemption, credit, set-off, deduction or similar amount to which the recipient is entitled as a purchaser or recipient of any supply under any applicable laws, whether the Indirect Transaction Taxes are paid by the supplier or directly by the recipient. If an exemption to payment of Indirect Transaction Taxes applies, the recipient shall provide the supplier with a valid tax exemption certificate or equivalent documentation required by any applicable laws in the jurisdiction where the supply takes place.

11. Payments to Consultant

11.1 Method of payment

- (a) Unless otherwise provided in the Contract, all payments required to be made to the Consultant by the Company pursuant to the Contract in relation to the performance of the Consultancy Services must be made in the currency specified in the Purchase Order by electronic funds transfer into the Consultant's nominated bank account.
- (b) If the Contract provides that any of the amounts referred to in Clause 11.1(a) are to be paid to the Consultant:
 - (i) outside Australia;
 - (ii) other than in Australian currency; or
 - (iii) in a manner subject to control by any Government Agency,
 payment is conditional upon the Company obtaining the necessary authorities and consents to the making of that payment.
- (c) Payments made by the Company are on account only and are not:
 - (i) evidence of the value of the Consultancy Services or that the Consultancy Services have been satisfactorily carried out in accordance with the Contract;
 - (ii) an admission of liability on the part of the Company; or
 - (iii) approval by the Company of the Consultant's performance or compliance with the Contract.

11.2 Tax Invoices

- (a) The Consultant must, unless otherwise agreed with the Company, render a Tax Invoice to the Company in relation to the provision of the Consultancy Services at the end of each month during the Term and calculated by reference to the prices, fees or other amounts specified in the Purchase Order.
- (b) Tax Invoices must be in a form acceptable to the Company and must contain the following information:
 - (i) the number of the Purchase Order to which the Tax Invoice relates;
 - (ii) a brief description of the Consultancy Services provided in the period covered by the Tax Invoice; and
 - (iii) any further verification or documentation in relation to the Tax Invoice as is reasonably required by the Company, including:
 - (A) timesheets indicating hours expended in the performance of the Consultancy Services; and
 - (B) evidence of reimbursable costs claimed.

11.3 Payment of Tax Invoices

- (a) Subject to Clauses 11.4, 13, 21.10(e) and 25.2, the Company must pay to the Consultant the amount shown on the Tax Invoice within 45 days following the end of the month in which the Tax Invoice is received by the Company).
- (b) If an amount is payable by the Consultant to the Company, the Consultant must pay that amount within 45 days of receipt of a written demand from the Company.

11.4 Disputed Tax Invoices

- (a) If the Company disputes any amount shown on a Tax Invoice, it must notify the Consultant within 21 days of receipt of the Tax Invoice and must pay any amounts not in dispute in accordance with Clause 11.3.
- (b) For the avoidance of doubt, payment by the Company of any amount the subject of a disputed Tax Invoice is not to be considered as an acceptance of the amount in dispute or of the Company's liability to make that payment.

11.5 Errors or exceptions in invoicing

Without limiting Clause 11.3, if the Consultant discovers or is advised of any errors or exceptions relating to its invoicing for the Consultancy Services, the Consultant and the Company will jointly review the nature of the errors or exceptions, and the Consultant must, if appropriate, take prompt corrective action and adjust the relevant invoice or refund overpayments.

11.6 Security of Payment

- (a) This clause 11.6 only applies where, and to the extent that, the Payment Act is applicable to any part of the Consultancy Services.

- (b) Nothing in the Contract will affect, restrict or limit the Consultant's right to:
 - (i) refer for adjudication any dispute falling within section 17 of the Payment Act; and
 - (ii) suspend the Consultancy Services under section 27 of the Payment Act.
- (c) Notwithstanding anything else in the Contract, the Consultant must:
 - (i) promptly give the Company a copy of any notice the Consultant receives from a subcontractor under section 27 of the Payment Act; and
 - (ii) ensure that each subcontractor promptly gives the Company a copy of any notice that the subcontractor receives from another person under section 27 of the Payment Act.
- (d) If the Company becomes aware that a subcontractor is entitled to suspend work (which forms part of the Consultancy Services) under section 27 of the Payment Act, the Company may (in its absolute discretion) pay the subcontractor such money that is, or may be, owing to the secondary subcontractor for work forming part of the Consultancy Services and any amount paid by the Company is recoverable from the Consultant as a debt due and immediately payable to the Company.
- (e) For the purposes of this Clause 11.6:
 - (i) work refers to work which the Consultant is, or may be, required to execute or provide under the Contract and includes goods, materials, plant, equipment, design and other services and temporary works; and
 - (ii) a reference to a subcontractor refers to any person engaged by the Consultant, its subcontractors or any other person to carry out work which forms part of the Consultancy Services.

12. PPSA

12.1 Meaning of terms

In this Clause 12, "security interest", "secured party", "perfected", "personal property", "possession" and "control" have the meanings given to them in the PPSA.

12.2 Further assurance

Whenever a Party requests that the other Party does anything reasonably necessary to ensure this Contract and any security interest granted under it is fully effective, enforceable and perfected with the priority to which they are entitled under the PPSA, that Party will promptly do so at its own cost. This may include:

- (a) doing anything to make, procure or obtain any consent, authorisation, registration or approval in respect of anything, or to facilitate it;
- (b) creating or executing (or procuring the creation or execution of) any document,

including any form, notice, consent or agreement; and

- (c) delivering documents or evidence of title or otherwise giving possession or control with respect to any personal property or other asset.

12.3 PPSA exclusions

- (a) To the extent this Contract or the transactions contemplated by it create a security interest under the PPSA, the parties contract out of each provision of the PPSA which section 115 permits, other than sections 96, 117, 118, 120, 123, 126, 128, 129, 134(1) and 135.
- (b) Nothing in this clause or the provisions of the PPSA set out in Clause 12.3(a) above shall derogate from the terms of this Contract.
- (c) Each party waives its right to receive:
 - (i) each notice which sections 144 or 157 of the PPSA permits it to waive and, to the extent capable of being waived, notice under any other provision of the PPSA; and
 - (ii) anything from the secured party under section 275 of the PPSA and each Party agrees not to make any request of the secured party of the other Party under that section.

12.4 Survival of obligation

This Clause 12 survives the expiry or termination of this Contract.

13. Deduction from payments

13.1 Deductions

The Company may:

- (a) deduct from any moneys due or becoming due to the Consultant pursuant to Clause 11.3 the following amounts (plus any Indirect Transaction Taxes in respect of such deductions payable in accordance with Clause 10):
 - (i) all debts and moneys due from the Consultant or its Personnel to the Company; and
 - (ii) all Liabilities which the Company may have paid, suffered or incurred and which or for which the Consultant or its Personnel is or are liable to bear, pay or reimburse to the Company (including pursuant to any indemnity contained in the Contract); or
- (b) without prejudice to the Company's rights pursuant to any other provision of the Contract, if the Consultant fails to perform any of its obligations under the Contract, without notice withhold payment of all or part of any amount payable to the Consultant under the Contract, until the matter has been remedied.

13.2 Deductions and withholdings required by law

- (a) If the Company is required by law to withhold or deduct any amount (**Deducted Amount**) from an amount payable under the Contract,

the Deducted Amount will be treated as having been paid to the Consultant when it is withheld or deducted and the Company will not be liable to pay any amount on account of the Deducted Amount to the Consultant.

- (b) If the Company fails to withhold or deduct a Deducted Amount, the Company may:

- (i) give Notice to the Consultant demanding payment of an amount equal to the Deducted Amount and the Consultant will pay that amount to the Company within 30 days of receiving the Notice;
- (ii) deduct an amount equal to the Deducted Amount from any amounts payable by the Company to the Consultant pursuant to this Contract and the amount so deducted will be treated as having been paid to the Consultant when it is deducted and the Company will not be liable to pay any amount on account of the Deducted Amount to the Consultant; or
- (iii) recover an amount equal to the Deducted Amount by a combination of a demand under Clause 13.2(b)(i) and deducting an amount under Clause 13.2(b)(ii),

and in each case where the failure to withhold or deduct the Deducted Amount arises as a result of any act, omission or oversight of the Consultant, the Deducted Amount will include any fines, penalties or interest payable by the Company in respect of the Deducted Amount.

13.3 Notification of withholding or deductions

The Company must notify the Consultant of the details of any amounts withheld or deducted pursuant to Clauses 13.1 or 13.2.

13.4 Clause to survive termination

This Clause 13 will survive the termination or expiry of the Contract.

14. No minimum purchase or exclusivity

14.1 No minimum purchase

Nothing in the Contract obliges the Company to request or acquire any minimum level of Consultancy Services from the Consultant.

14.2 No exclusivity

The Contract is not evidence of, nor does it create, an exclusive relationship between the Company and the Consultant in respect of the Consultancy Services (or any aspect of it).

15. Personnel

15.1 Personnel

The Consultant is required to supply all Personnel necessary for the proper performance of the Consultancy Services. Such Personnel must be appropriately qualified, competent and skilled to perform the relevant part of the Consultancy Services in respect of which they are engaged.

15.2 Engagement of Personnel

The Consultant must ensure that all Personnel of the Consultant engaged to provide any part of the Consultancy Services comply with Clauses 28, 29, 30, 31, 33 and 34 with respect to confidentiality, public announcements, Intellectual Property Rights, modern slavery and compliance with the Code of Conduct Policy.

15.3 Company may object to Personnel

The Company Representative may object to any of the Consultant's Personnel who, in the reasonable opinion of the Company Representative, is lacking in appropriate skills or qualifications, engages in misconduct or is incompetent or negligent. The Consultant must remove such Personnel upon receipt from the Company Representative of Notice requiring it to do so and must not re-employ that person in connection with the Consultancy Services without the prior written consent of the Company Representative. In addition, the Consultant must at its cost replace such removed Personnel with suitably qualified, competent and skilled Personnel approved by the Company.

16. Health, safety and environment

16.1 Application of Clause

This Clause 16 applies to the extent the Consultant or any of its Personnel are required to be on, or near the vicinity of, the Site for the purposes of the Consultancy Services.

16.2 Consultant acknowledgement

The Consultant acknowledges that there is a direct relationship between the Consultant's health, safety and environmental performance and the success of the Company's business.

16.3 Compliance with health, safety and environmental laws, policies and standards

The Consultant agrees to comply, and to ensure that its Personnel comply, with:

- (a) without limiting Clause 18, the Company's health, safety and environmental policies and associated standards a copy of which has been provided or made available to the Consultant (**HSE Policies and Standards**);
- (b) without limiting Clause 19, all relevant health, safety and environmental laws, regulations and Government Agency requirements in force from time to time; and
- (c) the health, safety and environmental conditions contained in this Clause 16.

16.4 Health, Safety and Environmental Management Plan

- (a) The Consultant must on request by the Company submit proposed health, safety and environmental management plans (**HSE Management Plan(s)**) consistent and in accordance with the HSE Policies and Standards, for review by the Company Representative within a reasonable time of the Company's request.
- (b) The Company Representative will review the proposed HSE Management Plan(s) and

provide the Consultant with any request for amendments.

- (c) The Consultant and its Personnel may not commence work on-Site unless and until the HSE Management Plan(s) and any requested amendments to it have been approved by the Company Representative.
- (d) The Company Representative may at any time direct the Consultant to amend the approved HSE Management Plan(s) to adequately reflect any amendments to the HSE Policies and Standards.
- (e) The Consultant must keep a copy of the approved HSE Management Plan(s) at its on-Site office or work area at all times during the Term.

16.5 Induction Courses

- (a) Each of the Consultant's Personnel must attend all appropriate and relevant induction courses required by the Company (**Company Induction Courses**).
- (b) Where, pursuant to the operating rules for specific areas of the Company or the Site, any of the Consultant's Personnel are required to have specific skills for the performance of the Consultancy Services (**Company Competencies**), the induction and training requirements in relation to those Company Competencies must:
 - (i) be included in the Consultant's HSE Management Plan(s);
 - (ii) to the extent they are not set out in the Consultant's HSE Management Plan(s), be confirmed with the Company Representative; and
 - (iii) be undertaken by the relevant Personnel prior to the commencement of any work on, or near the vicinity of, the Site.
- (c) Unless otherwise agreed:
 - (i) the Company will arrange and pay for the Company Induction Courses and will be responsible for the costs of Consultant Personnel attending the Company Induction Courses; and
 - (ii) the Consultant will arrange and pay for all training courses in respect of Company Competencies and will be responsible for the costs of Consultant Personnel attending such training courses.
- (d) Any person visiting the Consultant on Site to meet Personnel working on the Site, and who is not performing any type of manual work, will also be required to attend the relevant Company Induction Courses. However, this requirement will not apply if the visitor is accompanied at all times whilst on Site by a person who has attended all relevant Company Induction Courses, and has all required Company Competencies in relation to access to the Site.

16.6 Consultant to remain liable

Nothing in this Clause 16 (including the approval of the HSE Management Plan(s)) limits or removes

any obligation or duty imposed on the Consultant or any of its Personnel (whether under the Contract or otherwise) to secure or have regard to the health and safety of any of its Personnel.

16.7 Removal from Site

Notwithstanding any other term of the Contract, in the event of any breach of this Clause 16, the Company may:

- (a) require the Consultant, the Consultant's Personnel and/or any other person to leave the Site immediately; and/or
- (b) require the Consultant and/or any of its Personnel to remove any material or substance that the Consultant brought to the Site (including any mixture of materials or substances containing such material or substance that the Consultant brought to the Site) from the Site,

and the Consultant must, at its own cost, ensure such request is immediately complied with and take all possible action to ensure the protection and safety of all works, personnel and the environment.

16.8 Right of audit of the Consultant's performance

The Consultant must provide the Company with such documentation and access to the Consultant's Personnel as the Company reasonably requests in order to verify, monitor and audit the Consultant's compliance with:

- (a) the HSE Management Plan(s) and the health, safety and environmental conditions set out in this Clause 16;
- (b) the Policies and Standards; and
- (c) its other obligations under the Contract.

16.9 Action by the Consultant

Without limiting any other rights or remedies available to the Company as a result of the Consultant's non-compliance with any of the conditions, policies and standards referred to in Clause 16.8, if deficiencies are identified by an audit undertaken under Clause 16.8, the Consultant must take prompt corrective action and notify the Company of such action.

17. Access to Site

17.1 Access

Without limiting Clause 21.10(e) or this Clause 17, unless otherwise agreed, the Company will grant to the Consultant access to the Site on and from the later of:

- (a) the commencement of the Term under and in accordance with Clause 6; and
- (b) the date which is 7 days after the Consultant has given the Company Representative written notice of its intention to commence performance of the Consultancy Services on the Site.

17.2 Consultant obligations

- (a) Prior to commencing performance of the Consultancy Services on the Site, the Consultant must notify the Company

Representative of its normal times and periods of work and must give the Company Representative at least 24 hours' Notice of any alteration in its working hours or periods of work.

- (b) The Consultant must at all times consult with the Company Representative and obtain 14 days' prior written approval for any action likely to interfere with the Company's operations. The Company Representative must reply to any such request within 7 days of receipt of such request.

17.3 Right to deny access

If the Consultant or its Personnel fail to comply with any of the requirements of Clause 16 or this Clause 17, then the Company Representative may in its discretion deny that person or those persons access to the Site or permit such access subject to reasonable terms and conditions.

17.4 No exclusive possession

The Consultant acknowledges that nothing in the Contract confers on it exclusive possession of the Site and that it will only be granted access to the Site to the extent necessary for the performance of the Consultancy Services.

18. Compliance with Company policies

- (a) During the Term, the Consultant must, and must ensure that its Personnel, comply with Policies and Standards of the Company, as reasonably required and notified by the Company to the Consultant from time to time in writing.
- (b) Where there is a Change in Policies and Standards during the Term:
 - (i) the Consultant must give a written notice to the Company Representative within 5 Business Days after the Change in Policies and Standards containing:
 - (A) details of the Change in Policies and Standards; and
 - (B) an estimate of the Consultant's increased or decreased costs of complying with the Change in Policies and Standards including sufficient information to support the estimate; and
 - (ii) if a notice is given by the Consultant which complies with Clause 18(b)(i), then within 5 Business Days after the notice being given, the Company Representative may:
 - (A) direct the Consultant to disregard the Change in Policies and Standards; or
 - (B) direct the Consultant to comply with the Change in Policies and Standards and the Consultant will be entitled to a reasonable adjustment to the Contract Price to reflect the Consultant's increased or decreased costs to comply with the Change in Policies and Standards, and

- (c) If there is a change in the Policies and Standards which does not constitute a Change in Policies and Standards, the Consultant must comply with the change and will not be entitled to make, and the Company will not be liable upon, any Claim arising out of or in any way in connection with such change.

19. Laws

19.1 Compliance with laws

During the Term, the Consultant must:

- (a) comply with all applicable legislation, laws, regulations and Government Agency requirements relating to its obligations under the Contract and ensure that each of its Personnel does the same; and
- (b) in relation to the provision of the Consultancy Services, at its cost:
 - (i) obtain all necessary licences, permits, authorities and notices;
 - (ii) give all necessary notices;
 - (iii) pay all necessary fees, deposits and Taxes,
 and, if requested by the Company, must provide evidence of the matters referred to in this Clause 19.1(b) to the Company.

19.2 Consequences of breach

Notwithstanding any other Clause of these General Conditions or any other term of the Contract, in the event of any breach of Clause 18 or this Clause 19 by the Consultant, the Company may:

- (a) require the Consultant, the Consultant's Personnel, and/or any other person to leave the Site immediately; and
- (b) require the Consultant and/or any of its Personnel to remove any material or substance that the Consultant brought to the Site (including any mixture of materials or substances containing such material or substance that the Consultant brought to the Site) from the Site,

and the Consultant must, at its cost, ensure such request is immediately complied with and take all possible action to ensure the safety of all Personnel and the environment.

20. Force Majeure

20.1 Notice of Force Majeure

A Party will not be liable for any delay or failure to perform any of its obligations under the Contract (other than an obligation to pay money) due to Force Majeure if as soon as possible after the beginning of the Force Majeure affecting the ability of the Party to perform any of its obligations under the Contract, it gives a notice to the other party that complies with Clause 20.2.

20.2 Force Majeure notice

A notice given under Clause 20.1 must:

- (a) specify the obligations the Party cannot perform;
- (b) fully describe the Force Majeure;
- (c) estimate the time during which the Force Majeure will continue; and
- (d) specify the measures proposed to be adopted to remedy or abate the Force Majeure.

20.3 Obligation to remedy and mitigate

The Party that is prevented from carrying out its obligations under the Contract as a result of Force Majeure must:

- (a) remedy the Force Majeure to the extent reasonably practicable and resume performance of its obligations as soon as reasonably possible; and
- (b) take all action reasonably practicable to mitigate any Liabilities suffered by the other Party as a result of its failure to carry out its obligations under the Contract.

21. Insurances

21.1 Consultant Insurances

Unless otherwise provided in the Purchase Order, the Consultant is required, at its cost, to effect and maintain throughout the Term and any additional period specified in the Contract, each of the insurances described in Clauses 21.2, 21.3, 21.4, 21.5, 21.6, 21.7, 21.8 and 21.9 (**Consultant Insurances**) in relation to risks or occurrences arising, or which may arise, out of the performance of the Contract.

21.2 General and Product Liability Insurance

- (a) Insurance covering all Liabilities in respect of any injury to, or death of, any person not being a person who at the time of the occurrence is engaged in or upon the service of the insured under a contract of service or apprenticeship, or any loss, damage or destruction to property not belonging to nor in the care, custody or control of the insured, however caused. Such insurance must provide cover to an amount of not less than A\$20,000,000 for each and every claim.
- (b) The insurance outlined in Clause 21.2(a) must, unless prohibited by law, waive all express or implied rights of subrogation against the Company and its Personnel arising out of the performance of the Contract.

21.3 Workers' Compensation and Employer's Liability Insurances

- (a) Workers' compensation and employers' liability insurances covering all Liabilities, whether arising under statute, common law or civil law, in relation to the death of, or injury to any employee of the Consultant or any person deemed to be an employee of the Consultant.
- (b) The insurance outlined in Clause 21.3(a) must provide cover in respect of each and every claim for an amount not less than the minimum statutory requirements.

21.4 Consultant's Plant and Equipment

If the performance of the Contract requires the Consultant to use or provide for use plant and equipment that will be used at the Site in connection with the Contract, the Consultant must maintain or require the owner of such plant and equipment (except where the owner of such plant or equipment is the Company) to maintain insurance covering all loss and damage to that plant and equipment, for its replacement value. The insurance must, unless prohibited by law, waive all express or implied rights of subrogation against the Company and its directors, officers and employees.

21.5 Goods in transit

If the performance of the Contract requires the Consultant to transport goods, materials, supplies, equipment or other items to or from the Site, unless otherwise advised by the Company in writing, the Consultant will maintain insurance covering loss of or damage to the goods, materials, supplies, equipment or other items during transit, regardless of whether the Company has paid for those goods, materials, supplies, equipment or other items. Such insurance must note the company as a party insured under the policy.

21.6 Motor Vehicle/Automobile Third Party Liability Insurance

- (a) If the performance of the Contract requires the Consultant or its Personnel to use or provide for use motor vehicles, the Consultant must maintain or require the owners of such motor vehicles to maintain third party liability insurance covering all Liabilities in respect of any injury to, or death of, any person or any loss, damage or destruction to any property arising from the use of such motor vehicles.
- (b) The insurance outlined in Clause 21.6(a) must, waive all express or implied rights of subrogation against the Company and its Personnel arising out of the performance of the Contract.

21.7 Professional Indemnity Insurance

If the performance of the Contract includes or is related to the provision of professional advice or services, the Consultant must effect and maintain throughout the Term and for a period of not less than 3 years after termination of the Contract or completion of the Consultant's obligations under the Contract, professional indemnity insurance in respect of any negligent acts, errors or omissions in the advice or services provided by the Consultant under the Contract. Such insurance must provide cover to an amount of not less than A\$5,000,000 for each and every claim.

21.8 Marine Insurance

- (a) If the performance of the Contract requires or involves the use of watercraft, the Consultant must maintain or require the owners of such watercraft to maintain:
 - (i) marine hull and machinery insurance, including collision liability, on all watercraft so used, with a limit of cover not less than the market value of the watercraft; and

- (ii) protection and indemnity insurance including coverage for injuries or death of masters, mates and crews. Such insurance must provide cover to an amount of not less than A\$20,000,000 for each and every claim.
- (b) The insurance outlined in Clause 21.8(a) must, unless prohibited by law, be endorsed to:
 - (i) insure the Company and its Personnel for their respective rights and interests arising out of the performance of the Contract;
 - (ii) include a cross liability clause, noting that each of the parties comprising the insured will be considered as a separate entity, and the insurance applies as if a separate policy has been issued to each such party;
 - (iii) waive all express or implied rights of subrogation against the Company and its Personnel arising out of the performance of the Contract; and
 - (iv) include a clause that provides that a breach of a condition or term of insurance by one insured will not adversely affect the cover provided to another insured under the policy.

21.9 Aviation Insurance

- (a) If the performance of the Contract requires or involves the use of aircraft (including helicopters), the Consultant must maintain or require owners of such aircraft to maintain:
 - (i) aircraft hull insurance, on all aircraft so used, with a limit of cover not less than the market value of the aircraft; and
 - (ii) liability insurance including coverage for injuries or death of crew, passengers and any other person, and in respect of loss of or damage to cargo. Such insurance must provide cover to an amount of not less than A\$10,000,000 for each and every claim.
- (b) The insurance outlined in Clause 21.9(a) must, unless prohibited by law, be endorsed to:
 - (i) insure the Company and its Personnel for their respective rights and interests arising out of the performance of the Contract;
 - (ii) include a cross liability clause, noting that each of the parties comprising the insured will be considered as a separate entity, and the insurance applies as if a separate policy has been issued to each such party;
 - (iii) waive all express or implied rights of subrogation against the Company and its Personnel arising out of the performance of the Contract; and
 - (iv) include a clause that provides that a breach of a condition or term of insurance by one insured will not adversely affect the cover provided to another insured under the policy.

21.10 Insurance terms

- (a) If the Consultant Insurances are subject to the application of any self-insured retention, excess or deductible, the amount of the self-insured retention, excess or deductible must be declared to the Company.
- (b) The Consultant Insurances must be underwritten by a reputable insurer with a security rating from A.M. Best of not less than "A" and on terms and conditions consistent with prudent risk management practice.
- (c) No provision contained in this Clause 20 will limit the Consultant's liability in relation to the indemnities in the Contract.
- (d) Before performing any of the Consultancy Services, and each time the policies are renewed or varied, the Consultant must provide the Company with an insurance certificate of currency or such other evidence as the Company may reasonably require that the Consultant is insured in accordance with the Contract.
- (e) In the event that the Consultant fails to effect or keep in force any of the insurances required pursuant to the Contract, the Company may do one or more of the following:
 - (i) effect and maintain such insurances and deduct the costs of such insurances from any moneys due to the Consultant;
 - (ii) refuse the Consultant and its Personnel access to all or any part of the Site; and/or
 - (iii) treat the failure to insure as a material default under the Contract.
- (f) All Consultant Insurances must not be varied to the detriment of the Company or its Personnel, cancelled or allowed to lapse unless the Consultant has received a written consent from the Company.

21.11 Notification under Consultant's policy

If the Consultant becomes aware of an event which may give rise to a claim under any policy of insurance effected by the Consultant as required by this Clause 20, the Consultant must notify the Company and must ensure that the Company is kept fully informed of subsequent action or developments concerning the claim.

21.12 Sub-contractors' insurance

The Consultant must ensure that its sub-contractors have the benefit of or effect and maintain insurances equivalent to the Consultant Insurances required to be effected by the Consultant.

21.13 Insurance claims and payment of insurance excess

- (a) The Consultant will be responsible for the payment of any excess or deductible relating to the insurances effected by the Consultant and the Consultant will not be entitled to recover from the Company any excess or deductible so paid by the Consultant.
- (b) The Consultant will be responsible for the payment of any excess or deductible relating

to the insurances effected by the Consultant where the Company makes a claim under such policy, to the extent that the Company determines that the Consultant or any of its Personnel were responsible for the loss or damage.

21.14 Survival of Clause

This Clause 20 will survive the expiry or earlier termination of the Contract.

22. Indemnities

22.1 Acknowledgement

The Consultant acknowledges that if it enters on to the Site, it does so at the Consultant's own risk. The Consultant must ensure that its Personnel are also aware that they enter onto the Site at their own risk.

22.2 Indemnity

- (a) Subject to Clause 22.3, the Consultant will indemnify (and will keep indemnified) the Company, the entity entering into the Contract for and on behalf of the Joint Venturers, and each of its and their respective directors, officers, employees, representatives, contractors and agents (**Indemnified Parties**) from and against all Liabilities that any Indemnified Party suffers, sustains or incurs, arising out of or in connection with any one or more of the following:
 - (i) the breach by the Consultant or its Personnel of any of the Consultant's obligations (including any warranty) under the Contract;
 - (ii) any negligent act or omission, fraud or Wilful Misconduct by the Consultant or its Personnel arising out of the performance of the Contract; or
 - (iii) any claim made against the Company by any of the Consultant's Personnel in respect of relevant legislation concerning income tax, workers' compensation, annual leave, long service leave, superannuation or any applicable award, determination or agreement of a competent industrial tribunal.
- (b) The Company is entitled to recover from the Consultant an amount due to another Indemnified Party under the indemnity in Clause 22.2(a) on behalf of that other Indemnified Party and will hold any amount recovered, and the benefit of the indemnity in Clause 22.2(a) to which that other Indemnified Party is entitled, as trustee for and on behalf of that other Indemnified Party.
- (c) For the avoidance of doubt, the indemnity set out in this Clause 22.2 includes any legal costs awarded against and/or incurred by the Indemnified Parties on a full indemnity basis.

22.3 Exclusions

The Consultant will not be liable under Clause 22.2 to the extent that the Liability was directly caused, or contributed to, by (as the case requires) the

negligent acts or omissions, fraud or Wilful Misconduct of the Indemnified Parties.

22.4 Indemnity continuing

Each indemnity in the Contract is a continuing obligation separate and independent from the Consultant's other obligations and survives termination or expiry of the Contract.

22.5 No requirement for expense before enforcing indemnity right

It is not necessary for an Indemnified Party to incur expense or make payment before enforcing a right of indemnity conferred by the Contract.

23. Consequential Loss

23.1 Consequential Loss

Notwithstanding any other provision of the Contract but subject to Clause 23.2 and to the maximum extent permitted by law neither Party is liable to the other Party for the other Party's Consequential Loss.

23.2 Exclusions

Clause 23.1 does not limit or exclude the Consultant's liability in respect of:

- (a) personal injury or death of any person or any loss or damage to third party property (other than the property of the Company);
- (b) its indemnity obligations under Clauses 28.4, 31.2, 33.6 or 38.5;
- (c) a breach of Clauses 28 or 31 by the Consultant or its Personnel;
- (d) fraud, Gross Negligence, Wilful Misconduct or illegal acts of the Consultant or its Personnel;
- (e) any amount recoverable under an insurance policy required to be effected and maintained under the Contract;
- (f) any amount which would have been recoverable under an insurance policy required to be effected and maintained under the Contract but for:
 - (i) the Consultant failing to take out and maintain the insurances required by the Contract;
 - (ii) the Consultant vitiating or prejudicing any insurance policy;
 - (iii) the Consultant failing to make a claim under an insurance policy; or
 - (iv) the exclusion of liability for Consequential Loss in Clause 23.1.

23.3 Survival of clause

This clause 23 will survive the termination or expiry of this Contract.

24. No fault termination

24.1 Termination Notice

- (a) The Company may, at any time in its absolute discretion, terminate the Contract or any part of it for any reason by giving the Consultant not less than 10 Business Days' Notice of its intention to do so.
- (b) If for any reason a purported termination or action by the Company under Clause 25.2(d) or Clause 25.3 is ineffective, the purported termination is not a breach or repudiation of the Contract and the Contract is deemed to have been terminated under Clause 24.1(a).

24.2 Consultant compensation

- (a) Following termination of the Contract by the Company pursuant to this Clause 24, the Consultant's sole entitlement is to be paid the:
 - (i) value of the Consultancy Services delivered prior to the termination date that the Company has not already paid for;
 - (ii) the reasonable and unavoidable fixed costs, if any, necessarily and properly incurred by the Consultant solely as a result of the Contract in terminating or otherwise dealing with any subcontracts entered into prior to the date of termination but only if the Consultant takes all reasonable steps to minimise these costs; and
 - (iii) the Consultant's reasonable out-of-pocket expenses which it has incurred solely as a result of the Contract and which it is unable to otherwise recover or mitigate, in:
 - (A) removing the Consultant's plant and equipment from the Site; and
 - (B) transporting its Personnel back to their place of engagement.
- (b) For the purposes of Clause 24.2(a), the Consultant must provide to the Company on request, copies of such documentation and information as the Company may reasonably request in order to verify the amounts claimed by the Consultant.

25. Material Default and Insolvency

25.1 Default Notice

- (a) If a Party breaches any term of the Contract, the non-defaulting Party may serve a Notice of default (**Default Notice**) on that Party containing the information specified in Clause 25.1(b).
- (b) A Default Notice must:
 - (i) state that it is a notice under this Clause 25.1;
 - (ii) specify the relevant breach;
 - (iii) if the breach is capable of being remedied, state that the breach be remedied within a specified period of not less than 10 Business Days after

service of the Default Notice or state that the breach is incapable of remedy.

25.2 Termination for Material Default

If the breach is not remedied within the period specified in the Default Notice or is incapable of remedy, then the non-defaulting Party may by further notice do one or more of the following:

- (a) if the non-defaulting Party is the Company, it may elect wholly or partly to suspend payment under the Contract until the breach has been remedied by the Consultant;
- (b) if the non-defaulting Party is the Consultant, it may suspend performance of all or any part of the Consultancy Services until such time as the Company's default is remedied;
- (c) take such action as the non-defaulting Party deems reasonably necessary to cure the breach (the cost of such action so taken by the non-defaulting Party being recoverable as a debt due and payable by the other Party upon receipt of a written demand from the non-defaulting Party for such costs); or
- (d) terminate the Contract or any part of it with effect from a specified date.

25.3 Insolvency

If a Party becomes Insolvent, then the other Party may terminate the Contract with immediate effect by Notice the Party which is Insolvent or any other person in who the Contract has been vested.

25.4 Cost of completing the Consultancy Services

- (a) If the Contract is terminated by the Company pursuant to Clauses 25.2(d) or 25.3, the Company is entitled to recover from the Consultant any loss, damage, cost or expense suffered or incurred by the Company in completing the Consultancy Services that are greater than the amount which would have been paid to the Consultant if the Consultancy Services had been completed by the Consultant (**Company Completion Costs**).
- (b) Following termination by the Company pursuant to Clauses 25.2(d) or 25.3, the Company may assess the Company Completion Costs that it considers it will incur. Such costs will be a debt due and payable by the Consultant to the Company within 30 days of receipt by the Consultant of a written demand from the Company for such costs.

26. Termination generally

26.1 Obligations upon receipt of termination Notice

Upon receipt or issue of a termination Notice pursuant to Clauses 24.1, 25.2(d) or 25.3, the Parties must:

- (a) immediately take all possible action at its cost to ensure the safety of all Personnel and the protection of goods;
- (b) immediately take all possible action to mitigate any Liabilities incurred by it as a result of such termination; and

- (c) take any other action reasonably required by the other Party in relation to the termination.

26.2 Obligations upon termination

- (a) Subject to Clause 26.2(b), if the Contract is terminated pursuant to Clauses 24.1, 25.2(d) or 25.3, then immediately upon the issue of the termination Notice or on the date of termination specified in the termination Notice, whichever is later, the Consultant must:
 - (i) cease performance of the Consultancy Services except for any work the Company may specify in the Notice of termination;
 - (ii) provide the Company with a detailed report in such form as the Company may reasonably require in relation to the Consultancy Services performed up to and including the date of termination as set out in the termination Notice;
 - (iii) deliver to the Company the parts of the Consultancy Services performed by the Consultant and any Goods procured by the Consultant up to the date of termination;
 - (iv) return to the Company any items issued to the Consultant by the Company during the Term;
 - (v) offer the Company first right of refusal to purchase any of the Consultant's equipment used for the purposes of the Contract to be purchased by the Company at its depreciated value or such other value as agreed by the Parties;
 - (vi) if required by the Company, assign, novate or transfer any subcontract for the performance of the Consultancy Services from the Consultant to the Company or its nominee on terms reasonably required by the Company or as otherwise agreed by the Parties;
 - (vii) remove all equipment and Consultant's Personnel from the Site;
 - (viii) remove from the Site any wreckage, rubbish and debris of any kind as directed by the Company, and leave the whole of the Site which was within the Consultant's control or possession in a clean and safe condition; and
 - (ix) take any other action relating to the termination of the Contract as the Company may reasonably require.
- (b) If the Contract is terminated by the Consultant as a result of the material default of the Company in the form of non-payment of an amount owing, the Consultant's obligations pursuant to Clause 26.2(a) will be subject to the Company first paying the Consultant any amounts owing which are the subject of the Company's material default of the Contract.
- (c) Following termination of the Contract by the Consultant pursuant to Clause 25.2(d), the Consultant's sole entitlement is to be paid:
 - (i) the value of the Consultancy Services performed prior to the termination date

that the Company has not already paid for;

- (ii) the cost of Associated Goods properly ordered for which the Consultant has paid or is legally bound to pay and for which the Consultant has provided written evidence, to the satisfaction of the Company, of such payment or obligation to pay provided that upon payment by the Company, title in the Associated Goods must be transferred to the Company;
- (iii) the reasonable and unavoidable fixed costs, if any, necessarily and properly incurred by the Consultant solely as a result of the Contract in terminating or otherwise dealing with any subcontracts entered into prior to the date of termination but only if the Consultant takes all reasonable steps to minimise these costs;
- (iv) the Consultant's reasonable out-of-pocket expenses which the Consultant has incurred solely as a result of the Contract and which it is unable to otherwise recover or mitigate, in:
 - (A) removing the Consultant's plant and equipment from the Site; and
 - (B) transporting Consultant Personnel back to their place of engagement; and
- (v) the Consultant's reasonable and direct costs of producing the report referred to in Clause 26.2(a)(ii).
- (d) For the purposes of Clause 26.2(c), the Consultant must provide the Company with copies of its documentation including records, books and (subject to confidentiality restrictions) contracts as the Company may reasonably require in order to verify the amounts claimed by the Consultant.

26.3 Rights on Termination

- (a) If the Contract is terminated pursuant to Clauses 25.2(d) or 25.3,
 - (i) no action taken by the non-defaulting Party will prejudice the existence of any of its rights and remedies under the Contract which the non-defaulting Party may have as a result of the relevant breach; and
 - (ii) except where expressly provided otherwise, rights of the non-defaulting Party will be the same as they would have been at law had the other Party repudiated the Contract and the non-defaulting Party had elected to treat the Contract as at an end and recover damages.
- (b) If the Contract is terminated pursuant to Clauses 24.1, 25.2(d) or 25.3, then the Company may complete the Consultancy Services itself or by engaging a third party.
- (c) If the Company repudiates the Contract and the Consultant accepts that repudiation, thereby terminating the Contract, the Consultant is entitled to damages but is not

entitled to any other compensation in the nature of restitution or damages calculated on a quantum meruit.

27. Dispute Resolution

27.1 Dispute

In the event of any dispute, question or difference of opinion between the Company and the Consultant arising out of or under the Contract (**Dispute**), a Party may give to the other Party a Notice (**Dispute Notice**) specifying the Dispute and requiring its resolution under this Clause 27.

27.2 Dispute Representatives to seek resolution

- (a) If the Dispute is not resolved within 7 days after a Dispute Notice is given to the other Party, each Party must nominate one representative from its senior management to resolve the Dispute (each, a **Dispute Representative**).
- (b) If the Dispute is not resolved within 30 days of the Dispute being referred to the respective Dispute Representatives, then either Party may commence legal proceedings in an appropriate court to resolve the matter.

27.3 Performance of obligations during Dispute

During the existence of any Dispute, the Parties must continue to perform all of their obligations under the Contract without prejudice to their position in respect of such Dispute, unless the Parties otherwise agree.

27.4 Urgent interlocutory relief

Nothing in this Clause 27 prevents a Party from seeking any urgent interlocutory relief which may be required in relation to the Contract.

28. Confidentiality

28.1 Obligation of confidentiality

The Consultant undertakes and agrees:

- (a) to hold in strict confidence all Confidential Information and not to disclose or permit or cause the Confidential Information to be disclosed to any person other than any of its Personnel who require the Confidential Information for the purposes of providing the Consultancy Services; and
- (b) not to make use of the Confidential Information disclosed to it by the other Party (including duplicating, reproducing, distributing, disseminating or directly or indirectly deriving information from the Confidential Information), except and solely to the extent necessary for the performance of the Consultancy Services,

unless the Consultant has obtained the prior written consent of the Company to do so (which consent may be withheld by the Company in its discretion or given on such terms as it sees fit).

28.2 Exceptions

Clause 28.1 does not apply to:

- (a) information after it becomes generally available to the public other than as a result of the breach of this Clause 28 or any other obligations of confidence imposed on the Consultant; or
- (b) the disclosure of information in order to comply with any applicable law or legally binding order of any court, Government Agency or recognised stock exchange, provided that prior to such disclosure the Consultant gives Notice to the Company with full particulars of the proposed disclosure and limits the disclosure to the maximum extent possible.

28.3 Breach of consent

The breach of any of the conditions contained in a consent granted by a Party pursuant to Clause 28.1 will be deemed to be a material breach of the Contract.

28.4 Indemnity

- (a) Without limiting Clause 22, the Consultant indemnifies the Company and its Personnel, and must keep them indemnified, in respect of any Liabilities incurred or sustained by them resulting from a breach of this Clause 28 by the Consultant or its Personnel, except to the extent that the Liability was caused, or contributed to, by the Company's or its Personnel's negligent acts or omissions or Wilful Misconduct.
- (b) The Company is entitled to recover from the Consultant an amount due to its Personnel under the indemnity in Clause 28.4(a) on behalf of such person or entity and will hold any amount recovered, and the benefit of the indemnity in Clause 28.4(a) to which its Personnel are entitled, as trustee for and on their behalf.

28.5 Additional obligations

The obligations in this Clause 28 are in addition to and do not diminish the obligations of the Consultant in respect of secret and confidential information at common law or under any statute or trade or professional custom or use.

28.6 Return of Confidential Information

If requested by the Company, whether prior to or after the expiry or earlier termination of the Contract, the Consultant must promptly deliver to the Company all Confidential Information in the custody, possession or control of the Consultant or its Personnel.

28.7 Permitted disclosure

Despite Clause 28.1 above and without limiting clause 28.2, the Consultant may disclose Confidential Information:

- (a) for the purposes of enforcing the Contract, in a proceeding arising out of or connected with the Contract or to the extent that disclosure is regarded by the Consultant as necessary to protect its interests under the Contract;
- (b) as required under law (except that this clause 28.7 does not require or allow the Consultant to disclose any information of the kind referred to in section 275(1) of the PPSA); or

- (c) to its legal advisers and consultants.

28.8 Survival of Clause

This Clause 28 will survive the termination or expiry of the Contract.

29. Public announcements

Except as required by any applicable law or regulatory requirement or as otherwise permitted by the Contract, the Consultant must not make any public announcements or disclosures as to the Contract, or otherwise in relation to the subject matter of the Contract, without the prior written consent of the Company. In this regard, no media release or public announcement will be made in relation to the existence of the Contract without the Company's written approval and should such approval be given, then the wording of such release and the manner of publication must first be approved in writing by the Company.

30. Intellectual Property Rights in Consultancy Services

30.1 Consultant IP

- (a) The Company acknowledges that the Consultant remains the owner of all Consultant IP and that nothing in the Contract prevents, limits or restricts the Consultant's subsequent use or exploitation of Consultant IP.
- (b) The Consultant grants to the Company a non-exclusive, transferable, royalty free, irrevocable and perpetual licence to use all Consultant IP for the purposes of or in connection with the business of the Company to the extent such use is necessary to use and enjoy the Consultancy Services.

30.2 Contract IP

- (a) The Consultant agrees that all Contract IP will be vested in the Company and will be the Company's property as and when created and the Consultant assigns and must ensure that all of its Personnel assign all of their respective right, title and interest in and to the Contract IP (whether created before, on or after the Commencement Date) to the Company.
- (b) On the Company's request, the Consultant must execute any formal assignment or other document required to give effect to this Clause 30.2.

30.3 Sub-licence of Consultant IP

The Company may sub-licence the Company's rights to use the Consultant IP under Clause 30.1(b) to any person provided such use is in connection with the business of the Company.

30.4 Northparkes IP

- (a) The Consultant acknowledges and agrees that the Company remains the owner of all Northparkes IP and that nothing in the Contract prevents, limits or restricts their subsequent use or exploitation of Northparkes IP.

- (b) The Company grants to the Consultant a non-exclusive, non-transferable, revocable licence to use the Northparkes IP and the Contract IP for the sole purpose of providing the Consultancy Services.
- (c) The Consultant must not use, register or attempt to register any interest in or otherwise deal with the Northparkes IP and the Contract IP, or allow any other person to do the same, for any purpose other than to provide the Consultancy Services.

30.5 Consultant warranty

The Consultant warrants that:

- (a) the Consultant has the right to grant to the Company the licence under Clause 30.1(b); and
- (b) the Consultant has the right to assign all Contract IP to the Company in accordance with Clause 30.2.

30.6 General Consultant obligations

The Consultant agrees to:

- (a) disclose to the Company all Contract IP as and when it is created;
- (b) notify the Company as soon as the Consultant becomes aware of any suspected, threatened or actual infringement or unauthorised use of any Intellectual Property Rights in the Contract IP and to provide all reasonable assistance in relation to that infringement; and
- (c) provide all reasonable assistance the Company may request to protect, perfect, enforce, defend or assert its interests in and right to use and exploit the Contract IP (including assisting the Company to take action against persons infringing the Contract IP). The Consultant must also ensure that its Personnel provide all reasonable assistance to the Company as set out in Clause 30.2.

30.7 Survival of Clause

This Clause 30 will survive the termination or expiry of the Contract.

31. Third party Intellectual Property Rights

31.1 Third party Intellectual Property Rights

The Consultant warrants that to the extent that it uses or proposes to use the Intellectual Property Rights of any third party in the provision of the Consultancy Services, or to the extent the Company will use or might propose to use the Intellectual Property Rights of any third party in the use and enjoyment of the Consultancy Services:

- (a) it has obtained, or will obtain at no further cost to the Company, from the relevant third party all necessary licences and consents to use, or assignments of, such Intellectual Property Rights; and
- (b) that it will not breach any of the licences or assignments referred to in Clause 31.1(a).

31.2 Consultant Indemnity

- (a) Without limiting Clause 22, the Consultant indemnifies the Indemnified Parties and must keep them indemnified in respect of any Liabilities incurred or sustained by the Indemnified Parties resulting from any actual or alleged infringement of any Intellectual Property Rights of any third party arising out of or in connection with:
 - (i) the performance of the Consultancy Services by the Consultant;
 - (ii) the performance or operations of any other plant, machinery, tools, equipment, process, work, material, matter, thing or method used or supplied by the Consultant; or
 - (iii) the use and enjoyment of the Consultancy Services by the Company or its Personnel.
- (b) The Consultant must notify the Company immediately if the Consultant becomes aware of a Claim being threatened or made against the Company or its Personnel in relation to any of the matters covered by the indemnity in Clause 31.2(a).
- (c) The Company may require the Consultant to conduct any litigation that may arise from a Claim referred to in Clause 31.2(b) and all negotiations for settlement of that Claim. However, the Consultant must not make any settlement or consent to any judgment, order or verdict against the Company or its Personnel without the Company's prior written consent.
- (d) For the avoidance of doubt, the indemnity set out in this Clause 31.2 includes any legal costs awarded against and/or incurred by the Indemnified Parties on a full indemnity basis.

31.3 Exclusions

The Consultant will not be liable under Clause 31.2 to the extent that the Liability was caused, or contributed to, by the Company's or its Personnel's negligent acts or omissions or Wilful Misconduct.

31.4 Procurement of Intellectual Property Rights

If the Company or its Personnel are prevented from utilising the Consultancy Services or any part of the Consultancy Services as a result of any Claim in relation to an infringement of Intellectual Property Rights, the Consultant must (at its cost) take all reasonable steps to procure for the Company and its Personnel the right to use the Consultancy Services or the relevant part of the Consultancy Services for the purpose for which it was intended.

31.5 Procedure where Intellectual Property Rights cannot be procured

If the Consultant cannot procure the rights referred to in Clause 31.3 within a reasonable time (but not exceeding 60 days unless the Company Representative otherwise agrees), it must notify the Company Representative accordingly and the Company Representative may direct the Consultant to immediately (at the Consultant's cost):

- (a) alter the Consultancy Services or the relevant part of the Consultancy Services to avoid

infringement or violation of the Intellectual Property Rights or any of them;

- (b) amend the Consultancy Services affected or the relevant part of the Consultancy Services with work or other services which do not infringe or violate the Intellectual Property Rights; or
- (c) reimburse the Company any compensation and other moneys already paid to the Consultant and pay to the Company any costs or other expenses that may have been paid or incurred by the Company in connection with the removed Consultancy Services.

31.6 Moral rights

- (a) The Consultant must (at its cost) procure from each of the Consultant's Personnel and any third parties engaged in the provision of the Consultancy Services an irrevocable and unconditional consent, in favour of the Consultant (for the benefit of the Consultant and its customers, including the Company), which is legally enforceable by the Company, for the Company to use any Consultancy Services, Goods and materials prepared for or provided to the Company in connection with the Consultancy Services in accordance with the rights granted to the Company under Clauses 30.1(b), 30.2 and 30.3 which but for these consents would otherwise infringe any moral rights or similar rights of the employee, contractor or third party without making any identification of the employee, contractor or third party in relation to such use.
- (b) Where the Company reasonably believes that the Consultant has not complied with its obligations set out in this Clause 31.6, the Consultant must procure that each of the Personnel of the Consultant or any third parties engaged in the provision of the Consultancy Services do all such other things and execute all such documents as reasonably requested by the Company in order to confirm or give effect to any of the matters stated in this Clause 31.6.

32. Notices

32.1 Form of Notices

Any notice, demand, consent or other communication (**Notice**) given or made pursuant to the Contract must:

- (a) be in writing and on the letterhead of the Party giving notice;
- (b) be marked to the attention of the representative of the Party to whom the Notice is addressed as provided for in the Purchase Order or pursuant to clause 7;
- (c) where given by the Company, be signed or authorised by either the Company Representative, a director or company secretary of the Company, or a duly authorised representative of the Company;
- (d) where given by the Consultant, be signed or authorised by either the Consultant Representative, a director or company secretary of the Consultant, or a duly

authorised representative of the Consultant; and

- (e) be delivered by prepaid post, by hand, by email, or by facsimile to the Party to whom the Notice is addressed at its address shown in the Purchase Order or such other address as that Party may have notified to the other Party in writing.

32.2 Notices deemed given

A Notice will be taken to be duly given:

- (a) in the case of delivery by hand, when delivered;
- (b) in the case of delivery by post, 3 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);
- (c) in the case of email, at the time the electronic communication is received by the recipient; or
- (d) in the case of facsimile, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax machine number or name of the recipient and indicating that the transmission has been made without error,

but if the result is that a Notice would be taken to be given or made on a day that is not a Business Day or the Notice is received or deemed to be received later than 4.00pm (local time), it will be taken to have been duly given or made at the commencement of business on the next Business Day.

32.3 Service of documents

- (a) If a Notice, Claim or document under the Payment Act is required to be served on the Company, then it must be served at the Site address shown in the Purchase Order or such other address notified to the Consultant between the hours of 8.00am and 4.00pm (local time). Any Notice, Claim or document under the Payment Act which is served on a day that is not a Business Day or is served later than 4.00pm (local time) on a Business Day, will be taken to have been duly served on the next Business Day.
- (b) If any Notice, Claim or document under the Payment Act is served on the Company in 'hard copy', the Consultant must also provide the Notice, Claim or document in a readily accessible electronic format at the time of service or on the day of service.

33. Modern Slavery

33.1 Modern Slavery warranties

- (a) The Consultant represents, warrants and undertakes:
 - (i) that the Consultant is committed to sustainable business practices and that no Consultant Personnel, Related Bodies Corporate, affiliate, or any entity that performs the Consultancy Services for or provides services to, or on behalf

of, the Consultant engages in Modern Slavery;

- (ii) to comply with all statutory requirements including, without limitation, such requirements relating to the Consultant's or the Consultant's Personnel's business or operations or the business or operations of its Related Bodies Corporate, affiliates or any of their Personnel and, to the extent applicable, its or their respective Supply Chains;
 - (iii) to develop and maintain policies and procedures to avoid engaging in Modern Slavery;
 - (iv) to notify the Company promptly upon becoming aware of any incident, complaint or allegation that the Consultant, the Consultant's Personnel, or any of their Related Bodies Corporate, affiliates, or any of their Personnel or any entity in its or their Supply Chains has engaged in Modern Slavery; and
 - (v) that it has not (and is not likely to be) subject to any adverse finding, enforcement action or any legal claim by or through any person or a Government Agency connected to Modern Slavery.
- (b) The Consultant must have and maintain throughout the Term its own policies and procedures that are intended to ensure compliance with the warranties, representations and undertakings contained in this Clause 33.
 - (c) The Consultant must not engage in any activity, practice or conduct that would constitute Modern Slavery.

33.2 Modern Slavery reporting and audit

- (a) The Consultant acknowledges that the Company has corporate reporting requirements with regard to Modern Slavery and shall provide to the Company a written report or completed survey, upon request and at the Consultant's own expense, addressing the Consultant's Modern Slavery compliance measures (which may, for example, include Supply Chain due diligence, Supply Chain mapping, risk assessments, complaints, investigations and remediation measures).
- (b) The Consultant and its Personnel must permit the Company to have access to the Consultant's premises, any of their documentation and data (including documents stored in electronic form) and to interview the Consultant's Personnel in connection with the Consultancy Services, as necessary for the Company to verify, monitor and audit the Consultant's compliance with this Clause 33 and its performance of the Consultancy Services.
- (c) The Company may make and retain copies of the Consultant's documentation and data for the purposes of the Company's own Modern Slavery compliance and reporting requirements.

33.3 Action by the Consultant

Without limiting any other rights or remedies available to the Company as a result of the Consultant's non-compliance with any of the conditions, policies and standards referred to in Clause 33.1, if deficiencies are identified by an audit undertaken under Clause 33.2, the Consultant must at its own cost take prompt corrective action, notify the Company of such action and perform all remediation activities reasonably required by the Company.

33.4 Notice

- (a) The Consultant must immediately notify the Company in writing if:
 - (i) it becomes aware of or suspects that any of the representations, warranties and undertakings in Clause 33.1 are incorrect;
 - (ii) the Consultant, its Related Bodies Corporate, affiliates or any of its or their Personnel or an entity that performs Consultancy Services for, or provides services to, or on behalf of the Consultant breaches any of the representations, warranties and undertakings in Clause 33.1; or
 - (iii) it becomes aware that a breach of any of the representations, warranties and undertakings in Clause 33.1 may have occurred.
- (b) Notification under this Clause 33.4 will be sufficient if and only if:
 - (i) the notification sets out adequate particulars of the breach or suspected breach; and
 - (ii) the notification sets out what steps the Consultant is taking to investigate the breach or potential breach.

33.5 Termination

Notwithstanding Clause 33.4, if the Consultant breaches Clause 33.1 or the Company reasonably suspects such a breach has occurred, without prejudice to any other remedy which the Company may have, the Company may regard such breach as a material breach by the Consultant which is incapable of remedy for the purposes of its rights under Clause 25.

33.6 Indemnity

To the extent permitted by law, the Consultant indemnifies the Indemnified Parties and must keep them indemnified in respect of any Liabilities incurred or sustained by the Indemnified Parties arising out of or in connection with a breach of any representation, warranty or undertaking under this Clause 33, except to the extent that the Liability was caused, or contributed to, by the Company's or its Personnel's negligent acts or omissions or Wilful Misconduct.

33.7 Confidentiality

The Company may disclose any information (including any confidential information provided by the Consultant to it) concerning the identity, business and activities of the Consultant to any Government Agency in connection with enquiries

made of the Company by a Government Agency concerning the Consultant.

33.8 Survival of Clause

This Clause 33 survives the expiry or termination of the Contract.

34. Compliance with the Code of Conduct Policy and Core Contractor compliance training

34.1 Northparkes Code of Conduct Policy

In performing the Consultancy Services, the Consultant must, and must ensure that its Personnel:

- (a) comply or otherwise act in a manner consistent with the Company's code of business conduct policy (**Code of Conduct Policy**);
- (b) report all actual, alleged or suspected non-compliances with the Code of Conduct Policy to the Company or through the Company's reporting system; and
- (c) cooperate promptly and fully with the Company in any investigation of an alleged or suspected breach of the Code of Conduct Policy.

34.2 Core Contractor compliance training

The Company may identify the Consultant and/or certain of its Personnel as "Core Contractors". The Consultant must ensure that any such Core Contractors undertake the mandatory compliance risk reduction training modules identified by the Company from time to time within the timeframe specified. Such training modules can be accessed through the Company's business system and delivered as computer based training, or with the approval of the Company's relevant authorised Personnel, classroom based training.

35. Costs

35.1 Each Party to bear its own costs

Each Party must bear its own costs arising out of:

- (a) the negotiation, preparation and execution of the Contract; and
- (b) except as expressly provided otherwise in the Contract, any transaction contemplated by the Contract.

35.2 Stamp duty

All stamp duty which may be payable in any relevant jurisdiction on or in connection with the Contract or other document related to the Contract will be borne by the Consultant.

36. Status of Consultant

36.1 Independent contractor

At all times during the Term, and in the provision of the Consultancy Services, the Consultant is an independent contractor and will not act as, or be or be regarded as, an agent or employee of the Company, and the Consultant and its Personnel will

not be entitled to any benefits which would ordinarily accrue to any employee of the Company by virtue of their status as an employee.

36.2 Partnership and joint venture Consultants

Where the Consultant comprises more than one person they will be bound jointly and severally and by executing the Contract accept joint and several liability for any loss or damage that may be suffered or occasioned and any sum that may be or may become payable to the Company under the Contract.

37. Subcontracting

37.1 Consent required

The Consultant is not permitted to sub-contract all or any part of the Contract without the prior written consent of the Company, such consent not to be unreasonably withheld or delayed subject to the Consultant:

- (a) ensuring that each sub-contractor is engaged under a written agreement consistent with the Contract; and
- (b) providing the Company on request with copies of all subcontracts within 5 Business Days of a request from the Company.

37.2 Obligations survive sub-contract

The Consultant acknowledges and agrees that no permitted sub-contract in any way relieves the Consultant from the performance of any of its obligations under the Contract.

37.3 Status of Sub-contractor

As between the Consultant and the Company, the Sub-contractor will be considered the agent and employee of the Consultant. For the purposes of the Contract, the acts and omissions of each Sub-contractor and its Personnel will be deemed to be the acts and omissions of the Consultant.

38. Personal Data Protection

38.1 Personal Data

Each Party agrees to comply with its obligations under all applicable laws relating to privacy and protection of Personal Data in respect of Personal Data obtained by or disclosed to them pursuant to this Contract.

38.2 Warranty

Each Party warrants to the other Party that it has complied with, and will continue to comply with, all applicable laws in its processing of Personal Data (including its collection, use, disclosure, storage and handling) pursuant to this Contract.

38.3 Data protection

In addition to its obligations under Clauses 38.1 and 38.2, the Consultant agrees to:

- (a) only collect, use, disclose or process Company's Personal Data for the performance of its obligations under the Contract, and as directed by the Company;

- (b) not disclose Company's Personal Data to any other person (including the data subject) without the Company's prior written request or consent, unless the disclosure is required by applicable laws;
- (c) immediately notify the Company if it considers that the disclosure of Company's Personal Data is or may be required by applicable laws;
- (d) put in place and maintain appropriate technical, physical and organisational measures to protect against unauthorised access, loss, destruction, misuse, modification, disclosure or damage to Company's Personal Data;
- (e) take all necessary steps to ensure that its collection, use, disclosure and handling of Company's Personal Data will be fair and lawful and, for this purpose, the Consultant may reasonably enquire of the Company as to the manner in which the Company collected Company's Personal Data;
- (f) if requested by the Company to do so, execute EU model contracts for the transfer of Personal Data:
 - (i) with the Company; or
 - (ii) with any or all of the Consultant's related companies or subcontractors; and
- (g) immediately notify the Company and any relevant Government Agency of any Notifiable Data Breach.

38.4 Individual complaints

- (a) If an individual complains to the Company that the Consultant (or any of its Personnel) has, in the performance of the Contract, handled his or her Company's Personal Data inappropriately, the Company must promptly give the Consultant sufficient details about the complaint to enable the Consultant to take steps to address the subject of the complaint promptly. The Consultant must provide a written response to the Company about how it has addressed the complaint as soon as possible, and in any event, no later than seven (7) days after the complaint is notified to the Consultant. The response must identify the steps that the Consultant has taken to address the complaint and if relevant, to minimise any further misuse.
- (b) If an individual complains to the Consultant that the Consultant (or any of its Personnel) has, in the performance of the Contract, handled his or her Company's Personal Data inappropriately, the Consultant must:
 - (i) promptly inform the Company of the complaint;
 - (ii) provide the Company with the Company's Personal Data that is the subject of the complaint; and
 - (iii) provide a Notice to the Company about how the Consultant has addressed the complaint, and what steps the Consultant has taken to minimise further complaints.

38.5 Consultant indemnity

Without limiting Clause 22, the Consultant indemnifies the Company and must keep the Company indemnified from and against any and all Liabilities arising out of or in connection with the Consultant's actual or alleged breach of this Clause 38, except to the extent that the Liability was caused, or contributed to, by the Company's or its Personnel's negligent acts or omissions or Wilful Misconduct.

38.6 Survival of Clause

- (a) The Consultant must, on termination of this Contract, return, destroy, store or dispose of the Company's Personal Data as directed by the Company.
- (b) This Clause will survive the termination or expiry of this Contract.

39. Waiver

- (a) A failure to exercise, or any delay in exercising any right, power or remedy by a Party does not operate as a waiver of that right, power or remedy.
- (b) A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A waiver is not valid or binding on the Party granting that waiver unless made in writing.

40. Further assurances

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of the Contract and the transactions contemplated by it.

41. Severability

41.1 Severability

Any provision of the Contract which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. This does not invalidate the remaining provisions of the Contract nor does it affect the validity or enforceability of that provision in any other jurisdiction.

41.2 Negotiation in good faith

Where a provision is prohibited or unenforceable, the Parties must negotiate in good faith to replace the invalid provision with a provision which is in accordance with the applicable law and which must be as close as possible to the Parties' original intent and appropriate consequential amendments (if any) will be made to the Contract.

42. Governing law

The Contract is governed by the laws of New South Wales. Each Party submits to the non-exclusive jurisdiction of the Courts exercising jurisdiction

there in connection with matters concerning the Contract.

43. Assignment

- (a) The Consultant is not permitted to assign all or any part of the Contract without the prior written consent of the Company, such consent being at the Company's absolute discretion and on whatever terms and conditions the Company thinks appropriate, including requiring the proposed assignee to

be bound by any or all of the provisions of the Contract.

- (b) The Company is not permitted to assign the Contract to the detriment of the Consultant without the Consultant's prior written consent