

GENERAL TERMS AND CONDITIONS OF SUPPLY

1. Definitions

- 1.1 **"Agreement"** means this Agreement.
- 1.2 **"Client"** shall mean that person (or persons), or entity (or entities) which is the purchasing entity, or any person acting on behalf of and with the authority of the purchasing entity.
- 1.3 **"Company"** shall mean IKAD Engineering Pty Ltd trading as IKAD Engineering Australia ABN 34 101 876 037.
- 1.4 **"Guarantee"** means the guarantee provided under this Agreement.
- 1.5 **"Guarantor"** means the director, partner or proprietor or other person associated with the Client who signs this Agreement as a guarantor hereunder.
- 1.6 **"Price"** shall mean the cost of the Goods as agreed between the Company and the Client subject to clause 4 of this Agreement.
- 1.7 **"Goods"** shall mean all Goods and/or Services and works supplied and performed by the Company to and for the Client and also as described and referred to in any relevant tender documentation.

2. Acceptance

- 2.1 Any request received by the Company from the Client for the supply of Goods and/or the Client's acceptance of Goods supplied by the Company shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Client has entered into this Agreement, the Clients shall be jointly and severally liable for all payments of the Price and their obligations under this Agreement.
- 2.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be varied in accordance with this Agreement or with the written consent of the Company.
- 2.4 The Company is not bound by any representations, statements, conditions or agreements made by it or its agents unless confirmed by the Company in writing.

3. Goods

- 3.1 The Goods are as described on the invoices, quotation, work authorisation or any other supply or order forms as provided by the Company to the Client.
- 3.2 The Company may elect to subcontract all or part of the supply of the Goods.
- 3.3 The Company shall supply the Goods and perform its obligations in a professional and businesslike manner.
- 3.4 The Company must endeavour to ensure specialist tooling is available to allow the Goods be supplied on time. The Company accepts no responsibility for the non-availability of specialist tooling and as such will not be held liable for any delays and associated costs that may result.
- 3.5 The Client acknowledges that to the extent the Company has agreed to supply the Goods to the Client following provision by the Company of a

tender, the Company has relied upon information provided by or on behalf of the Client in any request for tender documentation, and that if such information in such request for tender should be found to be incorrect, misleading or deceptive, the Company reserves the right to vary the Price and/or terms and conditions of supply to the extent reasonably required.

4. Price and Payment

- 4.1 The Price shall be the Company's quoted price which shall be binding upon the Company provided that the Client accepts in writing the Company's quotation or tender document within seven (7) days of receiving such quotation or tender document, or within such other time period as stated within the Company's quotation or tender document, and in the absence of such acceptance then either:
- (a) as otherwise agreed between the Company and the Client in respect of the Goods; or
- (b) in the absence of the agreement then as determined by the Company to be the Company's current price, at the date of delivery or provision of the Goods, according to the Company's current prices as notified by the Company to the Client in writing.
- 4.2 Any variation or change in scope from the quoted Goods or specifications will be charged for on the basis of the Company's quotation and based on relevant prices and rates of the Company and will be shown as variations on the invoice. Payment for all variations must be made in full thirty (30) days after the date of the invoice provided to the Client by the Company in respect of such variation.
- 4.3 Time for payment for the Goods shall be of the essence, and payment for the Goods provided to approved Clients will become due for payment thirty (30) days after the date of any invoice provided to the Client by the Company from time to time unless otherwise agreed. Invoices may be issued by the Company on a monthly basis.
- 4.4 Payment to the Company for the provision of the Goods may be made by cash on delivery, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Client and the Company from time to time.
- 4.5 The Price shall be increased by the amount of any GST and other statutory charges, levies, taxes and duties which may be applicable, except to the extent that such GST and other statutory charges, levies, taxes and duties which may be applicable are expressly included in any invoice, quotation, work authorisation or any other supply or order forms provided by the Company to the client.
- ### 5. Delivery of Goods and Access
- 5.1 Unless otherwise specified by the Client in writing, delivery of the Goods shall be made to the Client's principal place of business from time to time.
- 5.2 The Client shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery and shall not do anything to prevent or obstruct delivery of the

Phone: (08) 9494 9000

Office: 82 Sparks Road, Henderson, WA 6166

Postal Address: PO Box 1529, Bibra Lake, WA 6965

Email: admin@ikad.com.au Website: www.ikad.com.au



- Goods or the performance by the Company of its obligations under this Agreement.
- 5.3 Delivery of the Goods to a third party nominated in writing by the Client is deemed to be delivery to the Client for the purposes of this Agreement.
- 5.4 The failure of the Company to deliver the Goods shall not entitle either party to treat this Agreement as repudiated.
- 5.5 The Company shall not be liable for any loss or damage whatsoever due to failure by the Company to deliver the Goods promptly or at all.
- 5.6 The Client must ensure that the Company has full and unrestricted access to any required work area or site at all times to allow proper performance of any works and supply of the Goods.
- 5.7 The Company shall not be held responsible for any delays or additional costs incurred due to the Client allowing any agent or third-party access to any relevant work area.
6. **Risk and Insurance**
- 6.1 All risk associated with, or relating in any way to, the Goods passes to the Client on delivery.
- 6.2 The Company shall maintain Workers Compensation, Public and Product Liability, Ship Repairers Liability and other specific insurances as detailed within the relevant tender documentation.
- 6.3 The Client is responsible for carrying adequate and valid insurance to cover all aspects relating or connected to the supply of any goods to the Company that are 'free issued'.
7. **Inspection of Goods**
- 7.1 The Client shall inspect the Goods on delivery and shall within forty-eight (48) hours of delivery notify the Company of any alleged defect, shortage in quantity, errors, omissions, or failure to comply with the description or quotation. The Client shall afford the Company an opportunity to inspect the Goods within a reasonable time following delivery if the Client believes the Goods are defective in any way. If the Client fails to comply with these provisions, the Goods shall be conclusively deemed to be free from defect, error and correct in quality and in compliance with this Agreement and free from any damage.
8. **Warranties, Exclusions and Limitations**
- 8.1 The Company will endeavour to resolve any problems as soon as possible after notification by the Client.
- 8.2 The Company warrants that the Goods are fit for their usual purpose and are free of defects and provides a warranty in respect of faulty materials and workmanship for the period as agreed by the Company in writing.
- 8.3 All statutory warranties that can be lawfully excluded are expressly excluded PROVIDED HOWEVER and notwithstanding any contrary provision of this Agreement, to the extent that any term or condition of this Agreement is contrary or in breach of any statute or any consumer guarantee contained therein, then to the extent contrary or in breach thereof such term or condition is to be read down, or if it cannot be so read down, then it is to be deemed severed and excluded, and to be void and of no force and effect, to the necessary extent.
- 8.4 Should the Company be required to provide and/or install second-hand or refurbished equipment or goods as part of this Agreement, the Company provides no warranty against faulty materials and workmanship unless specifically agreed in writing prior to the supply of the Goods.
- 8.5 It is the sole responsibility of the Client to ensure that the Goods are sufficient and suitable for the specific purpose for which the Goods were ordered.
- 8.6 Where the Goods are not of the kind ordinarily required for personal, domestic or household use or consumption then the liability of the Company is limited pursuant to s.64A of the Australian Consumer Law to, at the discretion of the Company:
- the replacement of the Goods or supplying of the equivalent Goods;
 - the repair of the Goods;
 - the payment of the cost/s of replacing the Goods or of acquiring equivalent Goods; or
 - the payment of the cost of having the Goods repaired.
- 8.7 In the event of supply of Services that fall within clause 8.6 above, the Company's liability is limited to refunding the purchase price, or resupplying the Service (at the Company's discretion) or payment of the cost of having the Services supplied again.
- 8.8 To the extent permitted by law, the Company will not be liable for any damage, loss, or injury suffered to any person or property, including the Client, as a result of negligence or otherwise by such persons, including but not limited to, any person failing to follow instructions relating to the Goods, modifying them, failing to appropriately maintain or store them or using them for an unintended purpose.
- 8.9 The Company is not liable for any damage or loss to the Client's goods, equipment, or materials whilst in the Company's custody unless caused by the Company's wilful act or omission.
9. **Exclusion of Consequential Loss**
- 9.1 Notwithstanding any other provision of this Agreement, express or implied, a Party (First Party) will not be liable to the other Party (Second Party):
- for loss of revenue, loss of business, loss of third-party contracts or loss of anticipated savings, whether arising in contract (including under any indemnity), tort (including in negligence or for breach of statutory duty) or otherwise; or
 - in any arbitration or court proceeding for consequential, indirect, special or economic loss or damage, loss of profits or revenue, loss of goodwill, loss of business opportunity, or for the payment of any liquidated sums or damages under any other agreement, loss of savings, interest or production whether such loss or damages arise in contract or tort or otherwise; or
 - to the extent not covered by paragraphs 9.1(a) and 9.1(b), for loss or damage which does not flow naturally from a

Phone: (08) 9494 9000

Office: 82 Sparks Road, Henderson, WA 6166

Postal Address: PO Box 1529, Bibra Lake, WA 6965

Email: admin@ikad.com.au Website: www.ikad.com.au

- breach of the Agreement (including under any indemnity), from negligence or breach of statutory duty or from any other act or omission of the First Party, its employees, agents or contractors.
10. **Client's Disclaimer**
- 10.1 The Client hereby disclaims any right to rescind or cancel this Agreement or to sue for damages or to claim restitution arising out of any promise, representation or warranty made to the Client by any servant or agent of the Company and the Client acknowledges that it buys the Goods relying solely upon his own skill and judgment and not in reliance of any promise, representation or warranty made to it.
11. **Cancellation**
- 11.1 The Company may cancel this Agreement or cancel delivery of the Goods at any time before the Goods are delivered to the Client by giving written notice to the Client. The Company shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 11.2 The Client may only cancel delivery of the Goods with the express written consent of the Company. In the event that the Client cancels delivery of the Goods the Client shall be liable for any costs incurred by the Company up to the time of cancellation.
12. **Default and Consequences of Default**
- 12.1 Interest on overdue invoices shall accrue from the date when payment becomes due and payable until the date of payment at a rate of 2% per calendar month, with such interest to be calculated daily and compounded monthly.
- 12.2 If the Client defaults in payment of any invoice or breaches any obligation of this Agreement, the Client shall indemnify the Company from and against all the Company's costs and disbursements relating thereto or arising therefrom including legal costs on a full indemnity basis in addition to all of the Company's costs of collection and enforcement.
- 12.3 Without prejudice to any other remedies the Company may have, if at any time the Client is in breach of any obligation (including but not limited to those relating to payment), the Company may without prejudice to any of its other rights at law suspend or terminate the supply of the Goods to the Client and/or terminate this Agreement and any of the Company's other obligations under this Agreement. The Company will not be liable to the Client for any loss or damage the Client suffers arising from the Company exercising its rights under this clause.
- 12.4 In the event that:
- (a) any money payable to the Company becomes overdue, or in the Company's opinion the Client will be unable to meet its payments as they fall due; or
 - (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, liquidator, trustee in bankruptcy (provisional or otherwise), controller, or similar person is appointed
- in respect of the Client or any asset of the Client;
- (d) there is a change in Control of the Company (as defined in the *Corporations Act 2001* (Cth),
- ("Insolvency Event") without the prior written consent of the Company, then without prejudice to the Company's other remedies at law the Company shall be entitled to cancel all or any part of any order of the Client which remains unperformed and/or terminate this Agreement in addition to and without prejudice to any other remedies, and all amounts owing to the Company shall, whether or not due for payment, immediately become payable.
- 12.5 Should the Client terminate the Agreement at any time prior to the supply of the Goods, the Client must indemnify the Company for any liability, damages, compensation, expenses or costs that may be incurred as a result of any such termination.
13. **Retention of Title**
- 13.1 Title and ownership of the Goods and any materials and equipment in respect thereof shall not pass to the Client and shall remain with the Company unless and until the Client has paid all amounts owing under this Agreement.
14. **Security and Charge**
- 14.1 Notwithstanding anything to the contrary contained herein or any other rights which the Company may have howsoever:
- (a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged (both now and in the future) ("Property"), both the Client and/or the Guarantor hereby charge in favour of the Company their interest in the said Property or any other asset to secure all amounts and other monetary obligations payable under this Agreement;
 - (b) the Client and/or the Guarantor acknowledge and agree that the Company may lodge a caveat in respect of any interest in real property to secure such charge, which caveat shall be withdrawn once all payment and other monetary obligations payable hereunder have been met; and
 - (c) should the Company elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify the Company from and against all the Company's costs relating thereto including legal costs on a full indemnity basis.
15. **Guarantee and Indemnity**
- 15.1 The natural persons who execute this Agreement as Directors, Partners or Proprietors of the Client ("Guarantor") in consideration of the Company extending credit to the Client and agreeing to enter into this Agreement with the Client, do hereby jointly and severally, irrevocably and unconditionally guarantee the performance of the Client's obligations pursuant to this Agreement and provide the indemnity below.

Phone: (08) 9494 9000

Office: 82 Sparks Road, Henderson, WA 6166

Postal Address: PO Box 1529, Bibra Lake, WA 6965

Email: admin@ikad.com.au Website: www.ikad.com.au

- 15.2 In consideration of the matters in 15.1 above, each Guarantor jointly and severally:
- (a) indemnifies and agrees to keep indemnified the Company against any loss, damage, action, demand, expense, claim or obligation which the Company has or may suffer or incur by reason of, or in any way consequent upon, arising out of or incidental to the non-payment of the monies owed or the non-observance or non-performance of the Client's obligations under this Agreement ("Client's Obligations"). The indemnity shall not be limited or affected in any way whatsoever by the fact that the monies owed could never be recovered against the Client or that the Client's Obligations could not be enforced against the Client; and
 - (b) agrees to pay all monies due, owing, or payable to the Company by the Client pursuant to the Agreement upon demand by the Company.
- 15.3 This Guarantee is unlimited in relation to its duration and the extent of the Guarantor's liability.
- 15.4 Neither the Guarantor's liability nor the Company's rights under this Guarantee and indemnity or otherwise shall be prejudiced or discharged by any act or omission or the incapacity of any person or any event, circumstance or securities of any description which might otherwise have the effect (whether at law in equity or under statute) of prejudicing, affecting or discharging the liability of the Guarantor hereunder either as a guarantor or principal debtor or as an indemnifier AND without limiting the generality of the foregoing, the Guarantor's liability and the Company's rights hereunder shall not be prejudiced, affected or discharged as a result of:
- (a) any loss, release or impairment of any securities held in respect of the monies owed or the Client's Obligations through any act or omission of the Company or through any other cause whatsoever;
 - (b) the granting of any time, credit or any indulgence or concession to or composition with or release or discharge by novation of the Client or the Guarantor or any other person whatsoever by the Company;
 - (c) any variation whatsoever of the terms governing the monies owed or the Client's Obligations;
 - (d) any lawful assignment of this Guarantee or indemnity by the Company; or
 - (e) any release, failure or agreement not to sue, variation, exchange, renewal or modification made or any other dealing, act or omission whether constituting a waiver, election, estoppel or otherwise by the Company with respect to any person or with respect to any judgment, order for payment of moneys, specialty, instrument (negotiable or otherwise) or other security whatsoever held, recovered or enforceable by the Company or any obligation or liability whatsoever in respect of all or any of the monies owed or any or all of the Client's Obligations,

AND each of the above circumstances shall be construed separately and independently and so as not to limit the meaning of any other listed circumstance.

15.5 Joint and Several

If the Guarantor comprises of more than one person, the Company may at any time and from time to time proceed against any or all of them in respect of the Guarantor's obligations arising from this Guarantee as the Company may choose in its absolute discretion and the persons comprising the Guarantor are jointly and severally liable in relation to the same. The Company is not obliged to make any claim against all the persons comprising the Guarantor.

15.6 Irrevocable and Continuing Guarantee

This Guarantee is an irrevocable and continuing Guarantee and shall remain in effect for the benefit of the Company in respect of all liabilities of the Client arising out of the Agreement and this Guarantee shall not be wholly or partially discharged as long as any of the monies owed remains owing or payable, contingently owing or payable or may in the Company's opinion become owing or payable or any of the Client's Obligations remain unperformed and the Guarantor shall have no right to discontinue this Guarantee.

15.7 Principal Obligation

The indemnity provided by the Guarantor in this Agreement shall be a principal obligation and may be enforced against the Guarantor without any responsibility or obligation on the part of the Company to proceed against the Client or any other person.

15.8 Payment in Gross

- (a) All benefits or monies received by the Company from or on account of the Client capable of being applied by the Company in reduction of any money owing to the Company shall be taken and applied by the Company as payment in gross without any right of the Guarantor to claim any benefit from any monies so received by the Company until the Company has received all of the monies owed and all of the Client's Obligations have been performed.
- (b) All payments under this Guarantee shall be made without deduction for any tax, duty or other government charge.

15.9 Bankruptcy and Insolvency Events

- (a) Upon bankruptcy of the Guarantor the Company shall be entitled to prove for the total indebtedness of the Client under any agreement in existence at the time of the bankruptcy of the Guarantor, notwithstanding that the monies owed or other monies payable by the Client to the Company under any agreement are not due and payable at the date of bankruptcy of the Guarantor.
- (b) Upon the occurrence of an Insolvency Event in relation to the Client the Guarantor will not prove in competition with the Company whether in respect of any amount paid by the Guarantor under this Guarantee, in respect of any other amount (including the proceeds of any security) applied by the Company in

Phone: (08) 9494 9000

Office: 82 Sparks Road, Henderson, WA 6166

Postal Address: PO Box 1529, Bibra Lake, WA 6965

Email: admin@ikad.com.au Website: www.ikad.com.au

reduction of the Guarantor's liability under this Guarantee or otherwise and the Guarantor authorises the Company to prove for all monies which the Guarantor has paid under this Guarantee and retain or to appropriate at the discretion of the Company any amount received by the Company.

(c) If any claim is made that all or part of a payment, settlement, transaction, obligation, conveyance or transfer affecting or relating in any way to the monies owed or the Client's Obligations is void or voidable under any law relating to bankruptcy, liquidation or the protection of creditors and such claim is upheld, conceded or compromised:

- (i) the Company shall be entitled immediately as against the Guarantor to the rights in respect of the monies owed or the Client's Obligations to which it would have been entitled if all or that part of such payment, settlement, transaction, obligation, conveyance or transfer had not taken place; and
- (ii) the Guarantor shall immediately do any act and sign any document at the Company's request to restore to the Company any securities held by the Guarantor immediately prior to such payment, settlement, transaction, obligation, conveyance, or transfer.

15.10 Guarantor's Waiver

(a) As long as any of the monies owed remains outstanding or payable by the Client to the Company (whether or not the Guarantor has become liable for those moneys under this Guarantee) or any of the Client's Obligations remain unsatisfied or unperformed, the Guarantor shall not:

- (i) claim any set-off or make any counterclaim against the Client or the Company;
- (ii) make any claim or enforce any right against the Client; or
- (iii) be entitled to, or retain the benefit of, any security or guarantee or any share therein now or subsequently held by the Company in respect of the monies owed and the Client's Obligations.

15.11 Securities

Any security taken by the Guarantor from the Client or from any co-Guarantor or co-indemnifier shall be held on trust for the Company as security for the Guarantor's liability arising from this Guarantee and indemnity, and upon the request of the Company the Guarantor shall deposit that security with or assign it to the Company.

15.12 Liability not affected

(a) The Company's rights pursuant to this Guarantee shall be additional to and shall

not merge with, affect, or be affected by any other:

- (i) security now or subsequently held by the Company from the Client, the Guarantor or any other co-surety or co-indemnifier; or
- (ii) obligation of the Guarantor to the Company,

notwithstanding any rule of law or equity or any statutory provision to the contrary.

(b) The Guarantor's liability under this Guarantee and indemnity shall not be affected by:

- (i) the fact that any other person who was intended to execute this Guarantee or otherwise to become a co-surety or co-indemnifier for payment of the monies owed or the performance of the Client's Obligations or any of them has not done so or has not done so effectively;
- (ii) the discharge under statute or any principle of law or equity of any Guarantor or any person who is co-surety or co-indemnifier for payment of the monies owed or performance of the Client's Obligations or any part thereof; or
- (iii) a lawful assignment of this Guarantee or indemnity or an assignment by the Company of the rights to receive the benefit of the payment of the monies owed or the performance of the Client's Obligations, and in the event of such assignment the Guarantor's obligations pursuant to this Guarantee shall be assigned and transferred automatically to the assignee and the assignee shall be entitled to the benefit of and to enforce the provisions of this Guarantee against the Guarantor as if the assignee were named as the Company in this Guarantee.

16. Privacy Act 1988

The Client and/or the Guarantor agree the Company may obtain from a credit-reporting agency a credit report containing personal credit information about the Client and Guarantor/s in relation to credit provided by the Company.

17. Trustee Provisions

17.1 If the Client enters into this Agreement in the capacity as trustee of a trust (whether or not disclosed to the Company), then in this document, each reference to the Client is a reference to it in that capacity and its own personal capacity.

17.2 If the Client enters into this Agreement in the capacity as trustee of a trust (whether or not disclosed to the Company), it warrants to the Company that:

- (a) it is the only trustee of the trust;
- (b) no action has been taken or proposed to remove it as trustee of the trust or terminate the trust;

Phone: (08) 9494 9000

Office: 82 Sparks Road, Henderson, WA 6166

Postal Address: PO Box 1529, Bibra Lake, WA 6965

Email: admin@ikad.com.au Website: www.ikad.com.au

- (c) it has power under the trust deed to enter into and observe its obligations under this Agreement and it has entered into them in its capacity as trustee of the trust and for the benefit of the beneficiaries of the trust;
- (d) it has a right to be fully indemnified out of the trust fund in respect of obligations incurred by it under this Agreement;
- (e) it is not in default under the terms of the trust; and
- (f) the Client has complied with its obligations in connection with the trust; including obtaining any beneficiaries' or other persons consent or approval required under the trust before the Client may enter into this Agreement.
- 17.3 Definitions
- For the purposes of this clause 18:
- (a) **"Beneficiary"** means a party in whose favour a security interest is granted under this Agreement;
- (b) **"Personal Property"** means all personal property the subject of a security interest granted under this Agreement;
- (c) **"PPSA"** means the *Personal Property Securities Act 2009* (Cth);
- (d) **"PPS Law"** means the PPSA and any amendment made at any time to the *Corporations Act 2001* (Cth) or any other legislation as a consequence of the PPSA; and
- words and phrases used in this Clause 18 that have defined meanings in the PPS Law have the same meaning as in the PPS Law unless the context otherwise indicates.
- 17.4 Further assurance
- (a) If a Beneficiary determines that this Agreement (or a transaction in connection with it) is or contains a security interest granted to it for the purposes of the PPS Law and that security interest is granted to that Beneficiary, the grantor of that security interest agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which a Beneficiary reasonably asks and considers necessary for the purposes of:
- (i) ensuring that the security interest is enforceable, perfected and otherwise effective; and/or
- (ii) enabling that Beneficiary to apply for any registration, complete any financing statement or give any notification in connection with the security interest; and/or enabling that Beneficiary to exercise rights in connection with the security interest.
- 17.5 No requirement for PPSA notices
- A Beneficiary need not give any notice under the PPSA (including notice of a verification statement) unless the obligation to give the notice under the PPSA is required by the PPSA to be given and cannot be excluded.
- 17.6 Costs and expenses relating to the PPSA and registration
- Everything the Grantor is required to do under this clause 18 is at the Grantor's expense.
18. **General**
- 18.1 If any provision of this Agreement shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected prejudiced or impaired.
- 18.2 All Goods supplied by the Company are subject to the laws of Western Australia and the Company takes no responsibility for changes in the laws which affect the Goods supplied.
- 18.3 The parties shall cooperate and do all such things and sign all such documents to give effect to the terms of this Agreement and their obligations hereunder.
- 18.4 In the event of any breach of this Agreement by the Company, the Client agrees that under no circumstances shall the liability of the Company exceed the Price paid for the Goods.
- 18.5 The Client agrees not to set off against the Price any amount that may be due and payable by the Company to the Client.
- 18.6 The Client may not assign or transfer their rights pursuant to this Agreement to any third party without the express prior written consent of the Company which consent may be withheld at the Company's absolute discretion or be subject to conditions.
- 18.7 The Company reserves the right to review the terms of this Agreement at any time and from time to time. If following any such review, there is to be any change in the terms of this Agreement, that change will take effect from the date on which the Company notifies the Client of such change. The Client has the right to terminate this Agreement by notice in writing to the Company within twenty-one (21) days from receipt of such notification, and in the absence of such termination the Company and Client acknowledge and agree that the Agreement will continue in its amended form.
- 18.8 Neither party shall be liable for any default due to any act of God, nature, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm, or other event beyond the reasonable control of either party.
- 18.9 The governing law of this Agreement is that of Western Australia and the parties' consent to the jurisdiction of the courts of the State of Western Australia in the event of any dispute in relation to this Agreement.