

PURCHASE ORDER TERMS AND CONDITIONS SERVICES AND ASSOCIATED GOODS

SCEE agrees to purchase the Services from the Supplier and the Supplier agrees to sell the Services to SCEE on these Terms and Conditions.

1. CONTRACT

- 1.1 The Conditions together with the Purchase Order constitute a legally binding contract between SCEE and the Supplier and set out the terms and conditions of the purchase of the Services.
- 1.2 The Contract comes into existence on the issue of the Purchase Order, irrespective of whether the Supplier returns a signed copy of the Purchase Order to SCEE or expressly confirms its agreement to these Conditions.
- 1.3 To the extent the Supplier's terms and conditions are supplied to SCEE, including with Goods or as printed on consignment notes or other documents (including quotations), those terms and conditions will be of no legal effect and will not constitute part of the Contract even if any of SCEE's personnel signs those terms and conditions or annexes the terms and conditions to the Contract.

2. PRECEDENCE

The Purchase Order prevails to the extent of any inconsistency with these Conditions.

3. THE SERVICES

- 3.1 The quantity, quality and description of the Services are as stated in the Purchase Order.
- 3.2 The Supplier must supply the Services in accordance with, and as specified in, the Contract.

4. TIME FOR PERFORMANCE

- 4.1 Time is of the essence in respect of all obligations of the Supplier under the Contract.
- 4.2 The Supplier must deliver any Goods to the Delivery Address by the Delivery Date.
- 4.3 The Supplier must supply the Services by the Delivery Date.
- 4.4 The Supplier must immediately report to SCEE any actual or likely delay in supply of the Services and its cause. The Supplier must take all reasonable steps to prevent delay.

5. INSPECTION AND SAMPLING

- 5.1 If inspection and testing requirements are specified in the Purchase Order, the Supplier must conduct those tests in strict accordance with the requirements of the Purchase Order.
- 5.2 In addition to any specifications as to testing and inspection in the Purchase Order, the Supplier must ensure that SCEE has the opportunity to inspect, test, and witness any test of the Services wherever they may be located. The Supplier must provide or ensure that its suppliers provide unrestricted access to reasonable facilities necessary for SCEE to carry out such inspections or witness such tests.
- 5.3 The Supplier is not relieved of any of its obligations under the Contract because SCEE has inspected the Services or witnessed any testing prior to delivery of Goods or supply of Services.
- 5.4 SCEE shall be entitled to reject Services that do not comply with the Specification or the requirements of the Contract.
- 5.5 SCEE is entitled to request samples of Goods or components of the Goods in connection with the supply or use of Goods, which must be supplied by the Supplier at its cost.

6. PACKAGING OF GOODS

- 6.1 The Supplier must
 - (a) suitably pack any Goods to avoid damage during loading, transit, delivery, unloading or storage;
 - (b) pack and transport any Goods in accordance with any applicable regulations and industry codes; and
 - (c) clearly mark all packages of Goods for delivery and the delivery documents for the Goods with the Purchase Order number and ensure that the delivery documents accompany the Goods to the Delivery Address.

7. DELIVERY

- 7.1 The Supplier must obtain all necessary permits and licenses which must be obtained in Supplier's name and are necessary for Supplier to perform its obligations under the Contract.
- 7.2 The Supplier must arrange for delivery of Goods to the Delivery Address.
- 7.3 The Supplier must, in providing the Services (including delivering Goods):
 - (a) not interfere with SCEE's activities or the activities of any third party at the Delivery Address or at the Site; and
 - (b) comply with, and ensure that its Personnel comply with all lawful directions and orders given by or on behalf of SCEE at the Delivery Address and/or at the Site.

8. TECHNICAL MATERIAL

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

9. PRICE

- 9.1 The price for the Services is the price stated in the Purchase Order. Unless otherwise agreed and clearly stated in the Purchase Order, the price stated in the Purchase Order excludes GST but includes any other applicable taxes, customs, excise and import duties, tariffs, fees, levies, charges, costs or expenses incurred by the Supplier, including transport, packing and insurance costs.
- 9.2 Unless otherwise agreed and clearly stated in the Purchase Order the Price is fixed and firm and not subject to adjustment due to currency fluctuation or any other reason.

10. PAYMENT

- 10.1 The Supplier must claim payment for the supply of the Services by submitting to SCEE invoices monthly. Each such invoice must:
 - (a) be a tax invoice;
 - (b) be correctly dated;
 - (c) refer to the Purchase Order;
 - (d) list the particular Services supplied; and
 - (e) be supported by relevant records to calculate and verify the amount set out in the invoice.
- 10.2 Compliance by the Supplier with clause 10.1 is a condition precedent to the Supplier's entitlement to claim the amount stated in an invoice submitted by the Supplier to SCEE.
- 10.3 If the Supplier submits an invoice earlier than the time for submission of that invoice set out in these Conditions, the Supplier agrees that the invoice shall not be taken to have been submitted until that time.

- 10.4 Save to the extent provided for in these Conditions, SCEE shall not be liable to pay for the Services until the Services have been supplied in accordance with, and as specified in, the Contract.
- 10.5 SCEE may, within 7 days of receiving a Supplier invoice, request by written notice that the Supplier provides SCEE with all additional records to calculate and verify the amount set out in any Supplier invoice, by the time stated in the notice or, whether no time is specified, within 48 hours.
- 10.6 Subject to clause 10.2, SCEE shall pay the Supplier the amount claimed in an invoice within 30 days of the end of the month in which the invoice was submitted.
- 10.7 If SCEE disputes any amount claimed in an invoice, SCEE shall make a determination of the amount payable and provide a payment certificate to the Supplier of its determination within 10 days. The payment certificate may take any form.
- 10.8 SCEE shall pay any amounts not in dispute in accordance with clause 10.6.
- 10.9 Without limiting clause 10.7, SCEE may issue a revised payment certificate at any time correcting any omission or error discovered in any previous payment certificate or modifying any previous payment certificate issued by it, including as a result of the provision of information under clause 10.5.
- 10.10 SCEE may deduct from moneys due to the Supplier any debt or other monies which are due from the Supplier to SCEE, whether under the Contract or otherwise.
- 10.11 Payment to the Supplier is on account only and does not constitute approval of the Services or any other matter or thing in respect of which payment is made.

11. TITLE AND RISK

- 11.1 Risk in Goods passes to SCEE upon delivery to the Delivery Address.
- 11.2 Property in Goods passes to SCEE upon delivery to the Delivery Address.

12. WARRANTIES

- 12.1 The Supplier represents and warrants that:
 - (a) the Services will be supplied in an efficient manner in accordance with all applicable laws, regulations, codes and standards;
 - (b) the Services strictly comply with the Specifications;
 - (c) the Services are free from all Defects;
 - (d) the Supplier will, and ensure its Personnel will, exercise the standards of diligence, due care and skill normally exercised by a prudent and similarly qualified and competent supplier supplying equivalent services;
 - (e) the Services are fit for the purpose for which services of the same kind are commonly supplied and for any other purpose described in the Purchase Order;
 - (f) all Personnel are appropriately qualified, competent and skilled to perform the relevant part of the Services in respect of which they are engaged;
 - (g) any equipment used on Site by the Supplier will be in a safe working condition and comply with all Legislative Requirements and be operated by suitably qualified and competent Personnel;
 - (h) all Goods match the description of the Goods in the Purchase Order;
 - (i) if the Supplier gave SCEE a sample of Goods before SCEE issued the Purchase Order, all Goods correspond with the sample;
 - (j) all Goods are of new and of merchantable quality; and
 - (k) all Goods are completely owned by the Supplier and will be supplied to SCEE free of any third party interests, liens, charges or encumbrances.
- 12.2 The Supplier must immediately rectify or replace at SCEE's option and at Supplier's sole cost any Defective Services discovered within 15 months after supply or 12 months after the Services are first used or enter into the service for which they are purchased, whichever occurs first.
- 12.3 If SCEE reasonably considers that it is necessary to immediately rectify or replace Defective Services then SCEE is not obliged to give the Supplier an opportunity to rectify or replace such Services before SCEE does so or causes a third party to do so. The Supplier must reimburse SCEE for the full cost of such replacement or rectification.
- 12.4 The Supplier's obligation to replace or rectify Defective Services is cumulative of other remedies available to SCEE.
- 12.5 The Supplier must ensure that SCEE has the full benefit of any manufacturer's warranties that may be applicable to the Services and the Supplier must pursue any manufacturer's warranties on SCEE's behalf if SCEE requests.
- 12.6 If the Supplier has replaced or rectified Defective Services, the rectified or replacement Services must be subject to the same warranty period as the original Services, from the date of rectification or replacement.
- 12.7 If SCEE elects to accept Defective Services, such election does not bind SCEE to accept any other Defective Services and does not affect any of SCEE's other rights under the Contract in respect of those Replacement Services.
- 12.8 SCEE may assign any or all of the above warranties to any of its clients or related companies and the Supplier consents to such assignment.

13. INTELLECTUAL PROPERTY

- 13.1 The Supplier warrants that any design, equipment, methods of working and documentation including but not limited to specifications, drawings, reports and publications used or produced by the Supplier in connection with the Services do not infringe any IP Right.
- 13.2 The Supplier warrants that any Goods do not infringe any IP Right.
- 13.3 SCEE acknowledges that ownership of all IP Rights used or created under the Contract or in the provision of the Services is retained by the Supplier. The Supplier grants to SCEE a non-exclusive, transferable, royalty free, irrevocable and perpetual licence to use such IP Rights for the purpose of SCEE having the benefit of the Services.
- 13.4 The Supplier indemnifies SCEE for all loss and expense incurred as a result of a breach of this clause.
- 13.5 This clause 13 shall survive the cancellation, termination or repudiation of the Contract for any reason.

14. LIABILITY AND INDEMNITY

- 14.1 The Supplier is liable for, indemnifies and will indemnify and keep SCEE indemnified against all Loss, and hereby releases and will release SCEE from any Action arising directly or indirectly from any breach of any warranty or obligation of the Supplier under the Contract, except to the extent caused or contributed to by any wrongful act or omission of SCEE.
- 14.2 Notwithstanding any other provision of the Contract, in no event shall either party be liable to the other in respect of any Consequential Loss arising out of or in connection with this Contract.
- 14.3 The rights and obligations under clauses 12 and 13 survive termination of the Contract.

15. CANCELLATION

- 15.1 In addition to its rights under clause 15, SCEE may cancel all or any part of the Purchase Order at any time for any reason, in its sole and absolute discretion by written notice of cancellation to the Supplier.
- 15.2 Upon receipt of notice of cancellation the Supplier must:
 - (a) immediately cease performance of the Services to the extent specified in the cancellation notice;
 - (b) immediately take all possible action to mitigate any costs incurred by it as a result of the cancellation;
 - (c) provide SCEE with a detailed report in the form required by SCEE in relation to the Services supplied prior to cancellation.

- 15.3 In the event of cancellation by SCEE under this clause:
- (a) the Supplier will be entitled to payment for Services (not comprising Goods) supplied and Goods delivered to SCEE prior to cancellation but not already paid for;
 - (b) if Goods have been shipped, but not delivered, at the time of cancellation SCEE may either:
 - (i) accept those Goods when delivered, and pay the Price for them; or
 - (ii) return those Goods to the Supplier at SCEE's expense;
 - (c) if Goods have been manufactured or fabricated in accordance with the Specification (but not shipped) at the time of cancellation, SCEE shall pay costs reasonably incurred by the Supplier prior to the date of the cancellation which is directly attributable to the placing of the Purchase Order and which the Supplier is not able to recoup in some other way;
 - (d) the maximum compensation payable to the Supplier arising out of the cancellation shall not exceed the Price of the relevant Services cancelled; and
 - (e) the Supplier is not entitled to the Price or to any other compensation arising out of the cancellation other than as specified in this clause.

16. DEFAULT AND TERMINATION

- 16.1 The Contract may be terminated by SCEE immediately on giving written notice of termination to the Supplier if the Supplier:
- (a) fails to remedy any breach of its obligations under the Contract within 7 days after receiving written notice from SCEE requiring it to do so;
 - (b) is unable to pay its debts when they fall due;
 - (c) ceases to hold any licence, qualification, approval, authority or consent required to supply the Services;
 - (d) threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvent administration;
 - (e) enters into any negotiations for any arrangement or composition with its creditors;
 - (f) being a company, goes into liquidation, whether voluntary or compulsory, or has a receiver or receiver and manager or administrator appointed, or an application is made for the Supplier to be wound up;
 - (g) being an individual, has a trustee in bankruptcy appointed;
 - (h) ceases or threatens to cease to carry on business; or
 - (i) assigns or subcontracts the Contract or any part of the Supplier's obligations under the Contract without the prior written consent of SCEE, in which case SCEE's liability to the Supplier shall be limited to payment of the Price for Services supplied prior to such termination.
- 16.2 Termination of the Contract does not affect or prejudice any rights of SCEE which have accrued prior to the termination. SCEE's exercise of its rights under this clause does not affect or limit its ability to exercise any other rights under the Contract, at law or in equity.

17. INSURANCE

- 17.1 The Supplier must for as long as it has obligations outstanding in connection with the supply of the Services, effect and maintain:
- (a) all insurances specified in the Purchase Order; and
 - (b) insurances with the following minimum limits, unless otherwise specified in the Purchase Order:
 - (i) Public and product liability: \$20 million;
 - (ii) Professional indemnity: \$5 million;
 - (iii) Motor vehicle: \$20 million; and
 - (iv) Workers' compensation: as required by applicable Legislative Requirements.
- 17.2 The Supplier must provide evidence satisfactory to SCEE of such insurance to SCEE as a condition precedent to the Supplier being entitled to:
- (a) access to the Site;
 - (b) make a claim for payment for the supply of the Services; or
 - (c) payment for the supply of the Services.

18. PERSONNEL

SCEE may object to any Personnel who, in SCEE's opinion, does not have the appropriate qualifications, competency or skill to perform the relevant part of the Services in respect of which they are engaged or who engages in misconduct. The Supplier must remove and immediately replace such Personnel with a suitable replacement upon being directed to do so by SCEE.

19. SITE

- 19.1 This clause 19 applies to the extent the Supplier or Personnel are required to be on or in the vicinity of the Site.
- 19.2 The Supplier must:
- (a) comply, and ensure its Personnel comply, with all Legislative Requirements and all policies, standards, rules and procedures in force from time to time, including in relation to HSE;
 - (b) submit and amend any HSE management plan(s) as reasonably required by SCEE;
 - (c) attend all induction courses as reasonably required by SCEE;
 - (d) permit SCEE to have access to the Supplier's premises, documentation, data and Personnel as necessary to enable SCEE to verify, monitor and audit the Supplier's compliance with this clause 19;
 - (e) give SCEE not less than 7 days prior written notice before commencing Services on the Site.
- 19.3 The Supplier acknowledges that it must not have exclusive possession of any part of the Site and must only be granted access to the Site to the extent necessary for the performance of the Services. The Supplier must cooperate with other contractors and persons on the Site and coordinate its work with them.

20. SECURITY OF PAYMENT

- 20.1 The parties agree that for the purposes of any adjudication under any security of payment Legislative Requirement in relation to the Contract or the Services:
- (a) the prescribed appointor shall be the Chairperson from time to time of the Chapter of Institute of Arbitrators and Mediators Australia in the State in which the Services are supplied;
 - (b) the amount set out in a payment certificate given by SCEE under clause 10.7 is the amount of the 'progress payment' calculated in accordance with the terms of the Contract to which the Supplier is entitled; and
 - (c) the date under clause 10.1 on which the Supplier must claim payment is the 'reference date'.

21. GENERAL

- 21.1 **Entire Agreement:** The Contract comprises the entire agreement between the Parties in respect of its subject matter and supersedes all prior agreements, quotation requests, understandings, representations, warranties, promises, statements, negotiations, letters and documents in respect of its subject matter.
- 21.2 **Severance:** If any provision of the Contract is determined to be void by any court then that determination does not affect any other provision of the Contract which otherwise remains in full force and effect.
- 21.3 **Waiver:** No waiver by a Party of any breach of a provision of the Contract is a waiver of any subsequent breach of that provision or any other provision. A waiver is not effective unless it is in writing.

- 21.4 **Variations:** An amendment or variation to the Contract is not effective unless it is in writing and signed by the Parties.
- 21.5 **Assignment:** The Supplier must not assign the Contract or any part of the Supplier's obligations under the Contract without the prior written consent of SCEE, which must not be unreasonably withheld.
- 21.6 **Subcontracting:** The Supplier must not subcontract all or any of its obligations under the Contract without the prior written consent of SCEE, which must not be unreasonably withheld.
- 21.7 **Exclusion and apportionment:** The operation of the Convention and, to the extent not prohibited by law, Apportionment Legislation is excluded. The Supplier indemnifies SCEE against any claim, cost, expense or liability whatsoever arising out of or in connection with the Contract which are caused or contributed to by the Supplier's Personnel and for which the Supplier would have been liable to SCEE but for, or which SCEE is not able to recover from the Supplier because of, any apportionment under any Apportionment Legislation.
- 21.8 **Governing Law:** The Contract is governed by, and is to be interpreted in accordance with the laws in force in the State in which the Delivery Address is located and the Parties submit exclusively to the jurisdiction of the courts in that State.

22. DEFINITIONS

In these Conditions:

Action means any claim, action, suit, proceeding or demand.

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

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

Conditions means these terms and conditions of purchase including any additional special conditions stated in the Purchase Order and any variations agreed by the Parties in writing.

Consequential Loss means consequential loss, damage or expense (including but not limited to loss of profit or revenue, loss of market or loss of contracts or damage to commercial reputation).

Contract means the Purchase Order and the Conditions.

Convention means the United Nations Convention on Contracts for the International Sale of Goods, adopted at Vienna, Austria on 10 April 1980.

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

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

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

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

GST has the meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999*.

GST Act means *A New Tax System (Goods and Services) Act 1999* (Cth). **HSE** means health, safety and environment.

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

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

Loss means any loss, damage, expense, payment or liability, but excludes Consequential Loss.

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

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

Price has the meaning given in clause 9.1.

Purchase Order means the written order signed by or on behalf of SCEE and accepted by the Supplier for the supply of the Services.

Services means the services set out in the Purchase Order and any Specification and includes any associated Goods.

SCEE means SCEE Electrical Pty Ltd (ABN 13 662 768 667).

Site means the premises specified in the Purchase Order.

Supplier means the supplier of the Services specified in the Purchase Order.

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

23. CYBER SECURITY

23.1 Interpretation and Definitions

- If there is any ambiguity or conflict between the provisions in these Cyber Security Terms and Conditions and the provisions of any other part of the Agreement, the provisions in these Cyber Security Terms and Conditions shall take precedence.
- The obligations in these Cyber Security Terms and Conditions continue after the completion, expiry or termination of the Agreement and apply for so long as the Contractor holds or has access to Company Data.
- In these Cyber Security Terms and Conditions, capitalized terms shall have the meaning defined under this clause 23.1(c) and shall, for the purpose of this clause 23 only, take precedence over definitions in other parts of the Agreement.

Agreement means a contractual arrangement, including a contract, subcontract, or Purchase Order, between the Company and the Contractor relating to the provision of Supplies. An Agreement incorporates the Cyber Security Terms and Conditions and any other document which is attached to or incorporated by reference in these Cyber Security Terms and Conditions.

Company means the SCEE legal entity detailed in the Agreement and "Company Group" includes in addition thereto any Company's Related Bodies Corporate (as defined in the *Corporations Act 2001* (Cth)), Company's contractors, co-venturers, co-owners, partners, joint ventures, and Company's Personnel.

Company Data means any information or data relating to the Company's business, or a member of the Company Group's business, including its operations, facilities, customers, clients, employees, assets, products, sales, and transactions, in whatever form the information exists, and includes any:

- Intellectual Property, Intellectual Property Rights and Moral Rights,
- Confidential Information,
- any information or data protected under Law, including under Data Privacy Laws;
- Personal Information;
- data accessed by any person through the provision of Supplies;
- database in which data or information is contained;
- documentation or records related to data or information;
- products resulting from the use or manipulation of data or information; and
- copies of any of the above.

Confidential Information means:

- (a) the terms of the Agreement;
- (b) information (in any form) relating to the Company or the Company Group made available to the Contractor at any time in connection with the Agreement;
- (c) any information that concerns the business, operations, finances, plans, Personnel or customers of the Company or the Company Group, which is disclosed to, or acquired by, the Contractor (including any information that is derived from such information); and
- (d) includes the Company Data, but does not include information which:
- (e) is or becomes public knowledge other than by a breach of the Agreement; or
- (f) has been independently developed by the Contractor without breach of the Agreement or acquired by the Contractor from a source which was not subject to a duty of confidentiality to the Company or its Related Entities (but only if, to the Contractor's knowledge, the source is not prohibited from disclosing such Confidential Information to the Contractor).

Contractor means the entity with which Company enters into an Agreement, including a supplier, contractor, or subcontractor, as detailed in the Agreement.

Cyber Security Terms and Conditions means the terms and conditions detailed within this clause 23.

Data Privacy Laws means all laws now or in the future relating to data protection, privacy, and information security, including all applicable international, regional, federal, or national data protection laws, regulations, and regulatory guidance.

Intellectual Property means any subject matter, whether tangible or intangible, that attracts, or is susceptible to protection by, Intellectual Property Rights.

Intellectual Property Rights means all copyright and analogous rights (including Moral Rights), all rights in relation to inventions (including patent rights), registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets), know-how, circuit layouts and all other rights throughout the world resulting from intellectual activity in the industrial, scientific or artistic fields. These rights include:

- (a) all rights in all applications to register these rights; and
- (b) all renewals and extensions of these rights.

Law means:

- (a) all legislation including regulations, bylaws, orders, and other subordinate legislation;
- (b) common law; and
- (c) any license, permit, consent, authorization, registration, filing, agreement, notice, notarization, approval, determination, certificate, ruling, exemption from any authority (including national, state, provincial, regional, territorial, local or municipal government, ministry, governmental department, commission, board, bureau, agency, instrumentality, executive, legislative, judicial or administrative body) or under any Law which must be obtained or satisfied and includes any condition or requirement under the foregoing.

Moral Rights means:

- (a) any moral rights arising under *the Copyright Act 1968 (Cth)*;
- (b) any rights described in Article 6b of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as amended or revised from time to time), being 'droit moral'; and
- (c) any other similar rights arising under any other Law in Australia or anywhere else in the world at any time.

Non-Approved Technology Applications are non-Company pre-approved applications which utilise artificially intelligent learning language models (such as ChatGPT, Bard and applications of similar nature).

Notifiable Incident has the meaning as defined in clause 23.5(a).

Personal Information means information and data which relates to a living individual who can be identified from that information or from that information in combination with other information in the possession of, or reasonably likely to come into the possession of, the same party, whether the information is recorded in a material form or not.

Personnel means directors, officers, employees, agents, contractors, and subcontractors, but a reference to the Company's Personnel excludes the Contractor.

Security Incident means any actual or potential accidental, unauthorized or unlawful destruction, loss, alteration, or unauthorized third party access to or disclosure of Company Data.

Supplies means the:

- (a) supply of any goods, if any, specified in the Agreement (including any part of the goods specified);
- (b) performance of the services, if any, specified in the Agreement (including any part of the specified services and any ancillary services);
- (c) carrying out of any works, if any, specified in the Agreement (including any part of the specified works and any ancillary works), as applicable.

23.2 Use of Non-Approved Technologies

The Contractor must not, without the Company's prior written consent:

- (a) use any Non-Approved Technology Applications to provide or to perform the Supplies; or
- (b) upload or disclose any Company Data to Non-Approved Technology Applications in connection with providing or performing the Supplies, or otherwise (including for the purposes of improving the performance of the Supplies).

23.3 Company Data

- (a) The Company Data will at all times be the property of the Company, and the Company owns all rights in and to the Company Data immediately on and from creation (including part creation).
- (b) The Contractor hereby unconditionally assigns, and must procure that the Contractor, any entities related to the Contractor and the Contractor's Personnel unconditionally assign, to the Company:
 - (i) all Intellectual Property Rights (other than copyright) derived from Company Data without the need for further assurance; and
 - (ii) all copyright in the Company Data (or compilations of Company Data), as an assignment of future property under section 197 of the *Copyright Act 1968 (Cth)* and in equity.
- (c) The Contractor must, if required by the Company, do all further things and execute all further documents necessary to assign Intellectual Property Rights in and to the Company Data to the Company.
- (d) The Contractor must not:
 - (i) use the Company Data except as required for the supply or performance of the Supplies under the Agreement;
 - (ii) reproduce the Company Data in whole or in part in any form except as required for the supply or performance of the Supplies under the Agreement; or
 - (iii) disclose the Company Data to any third party or persons not authorised by the Company to receive it, except with the prior written consent of the Company.
- (e) If any of the Company Data in the possession or control of the Contractor, is corrupted, lost or degraded as a result of the Contractor's breach of the Agreement, the Contractor must, to the extent it is capable, at its own cost carry out such remedial action to restore such Company Data.

23.4 Information Security

The Contractor warrants, represents, and undertakes that it will secure and protect the Supplies and all Company Data that it holds or has access to in connection with the Supplies, including by:

- (a) ensuring that access to Company Data by any of the Contractor's Personnel is restricted on a strict need to know basis and that such Personnel who have access to Company Data are bound by appropriate obligations of confidentiality and taking all reasonable steps in accordance with good industry practice to ensure the reliability of such Personnel;
- (b) maintaining and enforcing safeguards against the accidental, unauthorized or unlawful destruction, loss, disclosure or alteration of, or access to Company Data that are no less rigorous than those maintained by the Contractor for its own information of a similar nature, or otherwise in accordance with good industry practice, including by;
 - (i) undertaking prior to the supply or performance of the Supplies and maintaining a risk assessment that identifies, estimates, and prioritizes cybersecurity, data protection and privacy risks resulting from the operation and use of the information systems and processes used in connection with the provision of the Supplies;
 - (ii) applying, and updating, a proportional cybersecurity program that identifies and remediates weaknesses through the operationalization of relevant security controls within the information systems and processes used in connection with the provision of the Supplies as a matter of routine; and
 - (iii) being able to demonstrate to the reasonable satisfaction of the Company that the Contractor has an ongoing commitment to managing cybersecurity, data protection, and privacy risk;

23.5 Incident Notification and Management

- (a) The Contractor must notify the Company immediately (and in any event within 24 hours) upon becoming aware of any actual or potential Security Incident, breach of these Cyber Security Terms and Conditions, or breach of any applicable Data Privacy Laws ("Notifiable Incident"), take all reasonable steps to mitigate the impact of the Notifiable Incident and provide, at the Contractor's own cost, all reasonable assistance required by the Company in investigating and resolving the Notifiable Incident.
- (b) In the event of a Notifiable Incident, the Contractor must:
 - (i) in writing, and in the event notice in writing is not possible due to the Notifiable Incident, by other reliable means, provide the Company with a detailed description of the Notifiable Incident, the type of information that was the subject of the Security Incident, the identity of any affected individuals and all other information and cooperation which the Company may reasonably request no later than 48 hours after becoming aware of the Notifiable Incident;
 - (ii) take immediate action, at the Contractor's own cost, to investigate the Notifiable Incident, to identify, prevent and mitigate the effects of the Notifiable Incident and, to carry out any recovery or other action necessary to remedy the Notifiable Incident. The Contractor must not tamper with any evidence and must ensure that any such recovery or other action does not compromise any technical information or artefacts (including, for example, logs) which would reasonably be required by the Company to understand the Notifiable Incident, mitigate its effects and/or prevent its recurrence; and
 - (iii) not issue, publish, or otherwise make available to any third party any press release or other communication concerning the Notifiable Incident without the Company's prior written approval.