Purchase Order Standard Terms and Conditions

1. Agreement

(a) This Agreement shall be deemed to be accepted by the Supplier upon the Supplier taking any steps or action under or in accordance with this Agreement, including, but not limited to:

(i) the Supplier commencing manufacturing, procuring, supplying, or delivering of the Goods in accordance with this Agreement;

(ii) the Supplier commencing performance of the Services in accordance with this Agreement; or

(iii) the Supplier commencing performance of the Works in accordance with this Agreement.

(b) Where the Supplier has provided its own written contract terms, including where expressly or by reference through a proposal, quotation or other such document, their contract terms shall have no effect and the terms of this Agreement shall apply and shall constitute the entire agreement between the parties.

(c) Where the Purchase Order contains 'Special Conditions', such Special Conditions shall take precedence over these Purchase Order Standard Terms and Conditions to the extent of any inconsistency. Otherwise, to the extent that there is any discrepancy, inconsistency, inadequacy or ambiguity in or between any document comprising or related to this Agreement, the Supplier shall comply with the document which imposes:

(i) the highest quality or standard for product, workmanship or finish;

(ii) the greatest quantity;

(iii) the highest cost; and

(iv) the more onerous obligation applies, and

the Supplier shall have no claim against Dormway arising from the discrepancy, inconsistency, inadequacy or ambiguity.

2. Performance

(a) The Supplier shall, as an independent contractor, provide:

(i) all:

(A) goods referred to in the description of the Supplies in the Purchase Order ("**Goods**");

(B) services referred to in the description of the Supplies in the Purchase Order ("**Services**"); and/or

(C) works referred to in the description of the Supplies in the Purchase Order ("**Works**"); and

(ii) at the Supplier's own cost, all labour, materials, services, goods, plant, equipment, or other things necessary to provide the Goods, Services or Works (whether or not expressly described in this Agreement) or comply with its obligations under this Agreement,

(which for the purpose of this Agreement are collectively called the "**Supplies**").

(b) The Supplier shall carry out the Supplies in accordance with this Agreement and any requirements of the Head Contract referenced in or provided with the Purchase Order.

(c) Dormway shall pay the Supplier the Price in accordance with this Agreement.

(d) The Price is:

(i) firm and final;

(ii) not subject to rise and fall; and

(iii) with the exception of GST, inclusive of all taxes, duties and charges imposed or levied in Australia or overseas.

3. Supplier's Obligations

(a) The Supplier shall carry out and complete the Supplies:

(i) exercising a high standard of skill, care and diligence and in compliance with all applicable legislation and Good Industry Practice;

(ii) to ensure the Supplies are Fit for Purpose;

(iii) in accordance with this Agreement and Dormway's directions, Policies and procedures as advised by Dormway from time to time;

(iv) in accordance with all legislative requirements and any relevant Australian Standards (or other standards or industry standards) or codes applicable to the Supplies for the duration of this Agreement, including the Load Restraint Guide 2018 for Light Vehicles published by the National Transport Commission;

(v) in a manner that is suitable, appropriate and adequate for the purposes stated in, or reasonably inferred from, the Purchase Order;

(vi) in consultation with Dormway;

(vii) with due expedition and without delay;

(viii) to the extent the Supplies relates to Goods, deliver the Goods to the Delivery Address at the times stated in the Purchase Order. Unless otherwise specified, the Supplier must unload the Goods as directed by Dormway; and

(ix) to the extent the Supplies relates to Services and/or Works, perform the Services and/or Works at the Delivery Address at the times stated in the Purchase Order.

(b) Without limiting any of the Supplier's other obligations under this Agreement, the Supplier must promptly, and in any event within 24 hours of becoming aware, inform Dormway of any fact, matter or thing of which it becomes aware that is likely to affect the timing, cost or quality of the Supplies. The Supplier must provide all reasonable assistance requested by Dormway to assist Dormway to comply with any notice or claim requirements in respect of the relevant matter under the Head Contract. The Supplier must take all reasonable steps to mitigate any delays to the performance of the Supplies and/or any associated cost or quality impacts.

(c) Without limiting any other obligation under this Agreement, Dormway may direct the Supplier to give Dormway a program for the performance and/or delivery of the Supplies within the time and in the form directed. Once approved by Dormway, the Supplier must not, without reasonable cause, depart from that program.

(d) Without limiting the Supplier's obligations under any legislative requirement in respect to the Supplies, the Supplier warrants that the Supplies:

(i) in the case of Goods:

(A) are suitable, new (unless otherwise specified), are of good material and workmanship and free from defects or faults of any kind;

(B) are free of encumbrances and that the Supplier has good title to them;

(C) will be accompanied by relevant manufacturer quality certificates;

(D) are of merchantable quality and Fit for Purpose;

(E) will match the description (including performance criteria) and any specifications referred to in the Agreement and/or the Head Contract (which is available for inspection at Dormway's offices) and any sample or demonstration of the Goods (including as to the nature, quality or performance of the Goods) provided by the Supplier.

(ii) in the case of Services and Works:

(A) are executed in an efficient manner to standards of skill and care normally exercised by qualified and experienced professional or trade persons in the performance of similar services; and

(B) will match any demonstration of the Services and/or Works (including as to the nature, quality or performance of the Services and/or Works) provided by the Supplier and any specifications in the Agreement and/or the Head Contract (which is available for inspection at Dormway's offices).

(e) The Supplier must conduct any tests and commission the Supplies and give Dormway full access to inspect or witness tests or commissioning on the Supplies or their results at any time during the performance of the Supplies as required by Dormway.

(f) No inspection, comment, or approval by Dormway relieves the Supplier from its obligations under this Agreement or from any responsibility for any error, omission or non-compliance.

(g) The Supplier must take all measures to ensure that the Supplies are carried out so as to preserve and protect the natural environment on, below and adjacent to the Site and not cause any contamination. To the extent any contamination is caused, the Supplier must rectify this at its cost, and in accordance with any direction of Dormway or of a relevant authority;

(h) The Supplier must pay all entitlements owing to its employees relating to the performance of the Supplies under this Agreement as and when they fall due including, without limitation, all payments due in relation to wages and salaries, allowances, casual loadings, termination payments, entitlements under an award or agreement and leave entitlements.

(i) In relation to its employees, the Supplier warrants that:

(i) all employees who perform the Supplies have the required trade or professional qualifications which are required by legislative requirements or are necessary to allow the effective performance of the Supplies;

(ii) it will ensure that the trade and professional qualifications of employees will be kept current and in accordance with any legislative requirements or professional requirements;

(iii) all employees who perform the Supplies under this Agreement are medically fit to provide the Supplies and meet minimum standards associated with their employment category;

(iv) it has performed thorough reference checks on all employees who perform the

Supplies under this Agreement;

(v) its employees shall operate the Goods in a safe manner with no risk to the operator, other personnel on the Site, other property or the Goods; and

(vi) it is responsible for the management of all industrial relations relating to its employees.

(j) The Supplier acknowledges and agrees that it provides the same warranties as those which are applicable to Dormway under the Head Contract (which is available for inspection at Dormway's offices).

(k) The Supplier warrants to Dormway that:

(i) it has carefully examined all information relevant to the risks, contingencies and other circumstances (including all documents comprising the Agreement or otherwise provided by Dormway), and any information provided by Dormway which could affect the Price or performance of the Supplies under this Agreement or at law; and

(ii) it will obtain and pay for all necessary approvals, licences, permits and authorisations required for the performance of the Supplies.

(l) In addition to any of the Supplier's obligations under this Agreement, the Supplier acknowledges and agrees that it is responsible for and bears the risk of overcoming any buildability or constructability issues and will undertake regular buildability reviews and take all reasonable steps to ensure that any design work (and the Supplies generally) is capable of construction at an appropriate cost.

(m) The Supplier, and any of its personnel that Dormway directs, must attend all meetings reasonably requested by Dormway to discuss matters in connection with the Supplies.

4. Site

(a) Where applicable, the Supplier shall only access and use the Site:

(i) in accordance with Dormway's reasonable directions;

(ii) subject to Dormway's right to require the prompt removal of any person from the Site; and

(iii) at the locations directed by Dormway.

(b) The Supplier acknowledges that it is a precondition to its ability to access the Site or any property adjoining the Site that it has:

(i) requested and obtained written approval from Dormway to access the Site and/or any property adjoining the Site;

(ii) successfully completed all training and inductions and pre-start meetings required by Dormway; and

(iii) provided Dormway with all information, reports, plans, licences, permits, approvals, or any other documents or information required by this Agreement or by Dormway.

(c) The Supplier shall in providing the Supplies:

(i) protect all people from death or injury (including by the provision and maintenance of barricades, guards, fences, signs, lighting and traffic flagging);

(ii) protect the Supplies (including any unfixed plant, materials and goods) and all other property (including property or works of Dormway or others) from loss or damage; and

(iii) promptly make good, at its own cost, any damage caused by the Supplier to the Supplies or any property of Dormway or third parties.

(d) The Supplier warrants that it has visited and carefully examined the Site and its surroundings and fully informed itself as to all Site conditions.

(e) The Supplier warrants that it bears the risk of all physical conditions on the Site and its surroundings, whether or not those conditions differ from those expected by the Supplier at the time it entered into the Agreement.

(f) The Supplier acknowledges and accepts that it will not have exclusive possession of the Site and other contractors may be working at the Site during the performance of the Supplies. The Supplier warrants that it will coordinate and interface its activities on the Site with the work of other contractors and will take all reasonable steps to avoid or mitigate interference with the work of other contractors.

(g) The Supplier shall comply with all legislative requirements and all requirements, policies, licenses or procedures of Dormway concerning the environment.

(h) The Supplier warrants that it shall use reasonable care to ensure that there is nothing provided by it to perform the Supplies which would reasonably be expected to:

(i) cause nuisance, death, injury or ill health to any persons;

(ii) cause damage to property; or

(iii) cause contamination to the air, water or ground.

(i) The Supplier shall, if required by Dormway at its own cost:

(i) prepare an environmental management plan and submit it to Dormway prior to commencing performance of the Supplies; and

(ii) comply with any environmental management plan which Dormway determines is suitable.

5. Goods

(a) Without limiting clauses 3 and 3, the Supplier shall:

(i) properly package and protect the Goods and take all necessary steps to prevent damage during transit and on delivery, including pick-up and unloading of the Goods (to the extent such activities form part of the Supplies); and

(ii) give Dormway full access to the Supplier's premises for Dormway to inspect the Goods prior to delivery.

(b) The Supplier must use its best endeavours to ensure that manufacturers of any Goods or any other materials incorporated into the Supplies provide a manufacturer's warranty to the Dormway and/or the principal under the Head Contract for the relevant Goods or materials in a form acceptable to the principal and/or Dormway (as applicable).

1. Hire of Goods

If the Purchase Order specifies that all or part of the Goods are to be hired to Dormway:

(a) Title in the Goods or relevant part thereof does not pass to Dormway;

(b) The Supplier warrants that:

(i) it has the legal right to hire the Goods or relevant part thereof to Dormway;

(ii) it will not encumber, or cause an encumbrance to be created over, the Goods or relevant part thereof during the Hire Period without the prior written consent of Dormway, which will not be unreasonably withheld;

(iii) prior to the Goods or relevant part thereof being delivered to Dormway, the Goods have been maintained to the original manufacturer's specification; and

(iv) Dormway will have sole possession of the Goods or relevant part thereof for the Hire Period as bailee.

(c) The Supplier acknowledges the purpose for which the Goods or relevant part thereof are being hired by Dormway and the environment in which the Goods or relevant part thereof will be used; and

(d) The Supplier assumes the risk of, and will have no Claim against Dormway in relation to, any fair wear and tear to the Goods or relevant part thereof.

2. Heavy Vehicles

To the extent heavy vehicles (as defined in COR Laws) are used in carrying out the Supplies, the Supplier:

(a) Acknowledges that it is a primary duty holder under the COR Laws with responsibility for developing COR Systems;

(b) Must ensure that any heavy vehicles are appropriately maintained with loads that do not exceed vehicle mass or dimension limits, are appropriately secured, and operators carrying freight containers have a complying Container Weight Declaration (as defined in the COR Laws) and drivers do not exceed speed limits or regulated driving hours, do not drive while impaired by fatigue and observe minimum rest requirements;

(c) Must proactively provide reasonable assistance to Dormway to enable Dormway to satisfy its duties and responsibilities under COR Laws;

(d) Must obtain and maintain, and ensure that each of its personnel and suppliers obtains and maintains all approvals required to enable the applicable activity, function or task to be undertaken lawfully;

(e) Must undertake any audits or monitoring as requested by Dormway to demonstrate compliance with this clause; and

(f) Warrants that it is familiar with and has the capability and resources to comply with COR Laws and ensure that its personnel and suppliers comply with all COR Laws.

3. Ownership and Risk of Goods

(a) Ownership of, and unencumbered title in, the Goods shall pass to Dormway on the earlier of:

(i) delivery; or

(ii) the date of payment for the Goods.

(b) The Supplier shall be responsible for the care of the Goods until the date that risk passes in accordance with clause 3(c). If loss or damage occurs to the Goods while the Supplier is responsible for their care, the Supplier shall, at its cost, promptly rectify such loss or damage.

(c) Risk in the Goods shall pass to Dormway on delivery.

(d) The delivery of the Goods does not constitute acceptance by Dormway of the Goods or any representation by Dormway that the Supplier has complied with its obligations under the Agreement in relation to those Goods.

(e) The Supplier grants to Dormway an irrevocable licence to enter the Supplier's premises to remove all Goods for which ownership has passed to Dormway. To the extent permitted by law, the Supplier indemnifies Dormway against all claims arising out of or in connection with

Dormway's exercise of the licence granted under this clause.

4. Payment

(a) The Supplier shall be entitled to claim payment in accordance with, and at the times stated within, the Purchase Order. If no time for submitting a payment claim is listed in the Purchase Order, the Supplier must submit a payment claim within 5 days of the Date of Practical Completion. Each claim must state:
  (i) the Purchase Order number and project number;
  (ii) clearly state the amount claimed and include full details of the Supplies performed; and
  (iii) any supporting information necessary to support the claim or as otherwise required by Dormway from time to time.

(b) Subject to clauses 4(d), 4(e) and 4(f), provided that the payment claim complies with this clause 4, Dormway shall:
  (i) if Dormway does not consider that the claimed amount is payable in full:
    (A) issue a certificate assessing the amount owing to the Supplier (or by the Supplier to Dormway), including reasons for withholding payment, within 15 Business Days of receipt of the payment claim; and
    (B) pay the amount assessed as payable to the Supplier by the last day of the subsequent month; or
  (ii) if Dormway considers that the claimed amount is payable in full, pay the claimed amount to the Supplier by the last day of the subsequent month.

(c) Any amount assessed as owing by the Supplier to Dormway shall be paid by the Supplier to Dormway within 10 Business Days of the issue of the certificate under clause 4(b).

(d) Payment by Dormway of any claim shall be a payment on account only and shall not constitute evidence that the Supplies have been carried out satisfactorily.

(e) Dormway may deduct from any payment otherwise due to the Supplier:
  (i) any debt or other amount due from the Supplier to Dormway; or
  (ii) any claim to payment which Dormway may have against the Supplier whether for damages or otherwise, under this Agreement, under another agreement, or at law.

(f) Despite any other provision of this Agreement, the Supplier shall not be entitled to make a claim for any payment until the Supplier has provided to Dormway:
  (i) evidence of the Supplier having effected all insurances required to be effected by it under this Agreement;
  (ii) documentary evidence (satisfactory to Dormway) that all the Supplier's employees, sub-suppliers and sub-supplier's employees have been paid for all work, services, plant, goods and materials provided by them in connection with the carrying out of the Supplies at the relevant award or rate specified in any applicable industrial agreement; and
  (iii) such other documentary evidence as required by Dormway to support the amount claimed.

5. Defects

(a) Without limiting Dormway's rights under a Purchase Order or otherwise, if at any time up until the end of the Defects Liability Period, Dormway discovers that the Supplies or any part thereof are not in accordance with this Agreement or are, in any other way, deficient ("**Defects**"), Dormway may, at its sole option and discretion (but without any obligation whatsoever to do so):
  (i) direct the Supplier to, at its cost, perform any necessary redesign, repair or replacement of the defective parts of the Goods, re-perform the Services or Works, or take any other steps necessary to ensure that the Supplies comply with the requirements of this Agreement, within the time specified in a manner causing as little inconvenience as reasonably possible; or
  (ii) reject the Supplies or part thereof, by giving written notice to the Supplier.

(b) The Supplier will bear all costs associated with the return, replacement and/or rectification of the Goods, Services and/or Works.

(c) If the Supplier fails to comply with a direction under clause 5(a)(i) within the required timeframe, Dormway may take the necessary steps to ensure that the Supplies comply with the requirements of this Agreement (including engaging third parties to undertake the necessary steps) and its costs incurred will be a debt due and owing by the Supplier.

(d) Any costs incurred by Dormway associated with, or arising from, the Defects, including (but not limited to) the costs incurred by Dormway to investigate or rectify the Defects, will be a debt due and owing by the Supplier to Dormway.

6. Indemnity

(a) The Supplier indemnifies Dormway against:
  (i) loss or damage to property, including existing property on or around the Site including property belonging to third parties;
  (ii) claims against Dormway in respect of personal injury, death, or loss or damage to any property; and
  (iii) claims against Dormway in respect of any infringement of any intellectual property or moral rights,

  arising out of or in connection with carrying out the Supplies.

(b) The indemnity provided in clause 6(a) does not extend to claims that may be made against Dormway which arise from:
  (i) an injury which was caused directly by the failure of plant or equipment owned by Dormway;
  (ii) an injury which is the result of a deliberate and wrongful act or omission of a Dormway employee.

(c) Dormway may recover any amount indemnified under this clause as a debt.

(d) This clause 6 survives the termination of this agreement.

7. Insurance

(a) The Supplier shall effect and maintain the following insurance policies, which cover Dormway as an insured, with a reputable insurance company:
  (i) public and products liability insurance in the amount of $20 million for any one loss or occurrence, for the duration of this Agreement;
  (ii) insurance to cover physical loss or damage to the Supplies (to full reinstatement value), including loss or damage during transit or unloading. The policy or policies shall be maintained until risk in the Supplies passes to Dormway or the Supplier otherwise ceases to be responsible for the care of the Supplies;
  (iii) workers compensation as required by law and personal accident and illness insurance for sole traders, partners or contractors;
  (iv) if any Supplies include design or other professional services, a professional indemnity and liability policy of insurance for not less than $20 million per claim and in the annual aggregate, from the date of commencement of this Agreement to the date which is seven years after the Date of Practical Completion;
  (v) plant and equipment insurance for all plant and equipment used in connection with the Supplies for not less than the full replacement value of the plant and equipment, for the duration of this Agreement;
  (vi) comprehensive motor vehicle and third-party liability insurance which covers all vehicles, including unregistered mobile plant and equipment, used in connection with the Supplies. Such insurance must include coverage for personal injury as required by law; and
  (vii) any other insurance reasonably required by Dormway, including any identified in the Purchase Order.

(b) The insurances in clause 7(a) shall be on such terms (including excess levels) as would otherwise be procured and maintained by a prudent supplier acting in accordance with best industry practice.

(c) The Supplier shall, within 3 Business Days of Dormway's request, give evidence of insurance required to be effected and maintained.

(d) If the Supplier fails to obtain the insurances in accordance with clause 7, then without prejudice to any other rights or remedies Dormway may have, Dormway may:
  (i) insure and the cost thereof shall be a debt due and payable by the Supplier to Dormway; and
  (ii) suspend any further payments to the Supplier until the insurance policies are made available.

(e) The Supplier shall, as soon as practicable, inform Dormway in writing of any occurrence that may give rise to a claim under an insurance policy required by clause 7 and shall keep Dormway informed of subsequent developments concerning the claim.

(f) The Supplier shall pay all excesses and deductibles in respect of a claim under an insurance policy required by this clause 7 or under any insurance policy held by Dormway in connection with the Agreement where the Supplier or the Supplier's personnel or subcontractors or sub-suppliers were the cause of, or contributed to the need for, the relevant claim under Dormway's policy.

(g) Compliance with this clause 7 is a precondition to the Supplier being permitted to access the Site.

8. Default

(a) If the Supplier commits a breach of this Agreement, Dormway may issue a notice to the Supplier requiring the Supplier to show cause

why Dormway should not terminate this Agreement.

(b) If the Supplier fails to show reasonable cause within the period stipulated in Dormway's notice to show cause, Dormway may, by further notice, terminate this Agreement.

(c) Without limiting any of Dormway's rights or entitlements, following termination, without payment of compensation to the Supplier, Dormway may:

(i) use materials, equipment and other things intended for, or to be used for the Supplies; and

(ii) contract with any of the Supplier's sub-suppliers,

and for the avoidance of doubt, this clause survives termination.

9. Termination for Convenience

(a) Without prejudice to any of Dormway's other rights under this Agreement, Dormway may:

(i) at any time and for any reason, by written notice to the Supplier, terminate this Agreement; and

(ii) either itself or by a third party complete the uncompleted part of the work under this Agreement,

and the Supplier is entitled to claim for the cost of Goods delivered and/or Services and/or Works performed up to that date but is not entitled to any payment for loss of profit on the Supplies that have not been performed at the time of termination of this Agreement.

(b) On payment under clause 9(a), title in property, material, parts and/or incomplete Goods and/or Services and/or Works will pass to Dormway and the Supplier must, upon demand and at the Supplier's cost, deliver to Dormway any such property, material, parts and/or incomplete Goods and/or Services and/or Works.

10. Insolvency

If the Supplier:

(a) is insolvent or financially unable to proceed with this Agreement;

(b) being a person, commits an act of bankruptcy, is made bankrupt, has a bankruptcy petition presented against it, or makes an assignment of its estate for the benefit of its creditors; or

(c) being a company, becomes insolvent, has a liquidator, provisional liquidator, administrator or receiver appointed, has a change in ownership or control, takes or has taken or instituted against it any action which may result in the liquidation of the company, or if it enters into any agreement with its creditors,

(d) Dormway may, without issuing a notice to show cause, terminate this Agreement by written notice.

11. Work Health and Safety

The Supplier shall:

(a) ensure compliance with all laws and legal requirements relating to work health and safety;

(b) comply with all reasonable directions of Dormway with respect to work health and safety and ensure nothing done by the Supplier places Dormway in breach of its obligations under all laws and legal requirements;

(c) immediately notify Workplace Health and Safety Queensland in the event of any notifiable incident (or any near miss) occurring as a result of its activities and provide to Dormway copies and details of all information reasonably requested by Dormway; and

(d) without limiting any obligation under this Agreement the Supplier must otherwise immediately notify Dormway of any other incident that has an impact, or is likely to have an impact, on health and/or safety at the Site.

(e) The Supplier acknowledges and agrees that at any time (including following an incident on Site), Dormway or the principal under the Head Contract may (or may direct the Supplier to):

(i) by either breath or saliva sample, conduct random tests for alcohol and drugs on the Supplier's personnel who enter the Site;

(ii) exclude from the Site any of Supplier's personnel who test positive to drugs or whose alcohol reading exceeds 0.00%; or

(iii) require the Supplier and its personnel to provide evidence that it has in place and is complying with appropriate fatigue identification and management procedures.

(f) If at any time the Supplier becomes aware of an Emergency, or likely occurrence of an Emergency at the Site, the Supplier must immediately inform Dormway of the Emergency and the steps it proposes to take, at its own cost, to deal with the Emergency and (unless otherwise directed) use all reasonable endeavours to resolve or prevent the Emergency. The Supplier must follow any directions of Dormway or the principal under the Head Contract or any third party in control of the Site during the Emergency, such as emergency services.

(g) The Supplier acknowledges and agrees that Dormway may exclude any of the Supplier's personnel from the Site should they fail to pass any of the tests referred to in subclause (e).

12. Licence

The Supplier shall not carry out any Supplies which require a licence unless it holds the proper licence permitting the Supplier to lawfully carry out those Supplies.

If the Supplier is unable to carry out Supplies which requires a licence because it has failed, refused, or been unable to obtain a proper licence or has had its licence suspended or cancelled, or has had conditions imposed on its licence, then the Supplier shall be in substantial breach of this Agreement.

13. Variation

(a) Dormway may, by written notice, direct the Supplier to vary the Supplies ('Variation'). The price of the Variation shall be agreed by the parties or, if not agreed, as determined by Dormway.

(b) If requested by Dormway, the Supplier must provide a detailed quotation for the work the subject of the Variation directed by Dormway under subclause 13(a) (including any likely delay to the Supplies and cost) within 3 Business Days of receipt of the Variation direction from Dormway.

(c) The Supplier shall not be entitled to any payment for any Variation unless the Variation is directed in writing by Dormway and expressly acknowledged by Dormway to be a Variation.

(d) Despite any other provision of the Agreement, if:

(i) the Supplier receives a direction from any third party, including the principal under the Head Contract or a representative of the principal; or

(ii) Dormway gives the Supplier a direction which, in the opinion of the Supplier, involves a Variation, other than a direction which Dormway expressly acknowledges in writing involves a Variation,

the Supplier shall, within 24 hours of receipt of the direction and in any event before complying with the direction, notify Dormway in writing of the direction and, if applicable, provide the Supplier's estimate of the additional work necessary to give effect to the direction or Variation (including any likely delay, EOT and cost).

(e) The Supplier shall not comply with or commence performance in accordance with any direction of the kind referred to in clause 13(d)(i) until Dormway has confirmed in writing that the Supplier is to proceed with the relevant direction.

(f) The Supplier shall not be entitled to any claim or additional cost unless it strictly complies with clause 13(d) and 13(e) in all respects.

(g) For the avoidance of doubt, any work which is not expressly identified in the Agreement or Purchase Order but which is necessary for the carrying out of any work required to perform the Supplies shall not constitute a Variation and the Supplier shall not be entitled to additional payment for that work.

18A Modern Slavery Act

(a) The Supplier undertakes, warrants and represents that neither the Supplier, nor any of the Supplier's directors, officers, employees, agents, secondary subcontractors and consultants, have:

(i) committed an offence under the Modern Slavery Act;

(ii) been notified that they are subject to an investigation or prosecution relating to an alleged offence under the Modern Slavery Act; or

(iii) become aware of any circumstances within the supply chain that could give rise to an investigation or prosecution relating to an alleged offence under the Modern Slavery Act.

(b) The Supplier must:

(i) comply with its obligations under the Modern Slavery Act at its own cost;

(ii) provide all assistance and information reasonably requested by Dormway to enable it to comply with its reporting, risk management and other obligations imposed by any Modern Slavery Act to which it is subject;

(iii) inform its secondary subcontractors and consultants, of the Supplier's obligations under any Modern Slavery Act;

(iv) incorporate into each contract it holds with any such secondary subcontractors and consultants, provisions no less onerous than those set out in this clause 18A;

(v) ensure the Supplier, and the Supplier's directors, officers, employees, agents, secondary subcontractors and consultants, comply with any applicable requirements under any Modern Slavery Act;

(vi) notify Dormway immediately in writing if it becomes aware or has reason to believe that the Supplier, or any of the Supplier's directors, officers, employees, agents, secondary subcontractors and consultants, have not complied with, or breached or potentially breached, any obligations under any Modern Slavery Act or this clause 18A. Any notice under this clause shall set out full details of the circumstances concerning the non-compliance, breach or potential breach of

obligations under any Modern Slavery Act or this clause 18A; and

(vii) on request by Dormway, with at least 10 Business Days' notice, allow Dormway such access to the Supplier's records, personnel, systems and premises as reasonably necessary to allow Dormway to verify the Supplier's compliance with this clause 18A.

(c) Any breach by the Supplier or its directors, officers, employees, agents, secondary subcontractors and consultants of any obligations under any Modern Slavery Act or this clause 18A shall be deemed a breach of this Agreement.

14. Subcontracting

(a) The Supplier must provide reasonable prior written notice of any sub-supplier it intends to subcontract to carry out any of the Supplies.

(b) The Supplier must not subcontract the carrying out of any of the Supplies, without Dormway's prior written approval, which may be given or withheld in Dormway's sole discretion.

(c) The Supplier must ensure, if approved to subcontract the carrying out of any of the Supplies, that the sub-suppliers have the requisite training and qualified skills, and are appropriately licensed to perform the Supplies.

(d) Notwithstanding Dormway's approval to subcontract the carrying out of any of the Supplies, the Supplier is liable to Dormway for any acts, defaults or omissions of its sub-suppliers as fully as if they were the acts, defaults or omissions of the Supplier itself.

(e) The Supplier must ensure that all sub-suppliers are insured against liability for damage to property, and death or bodily injury to any person arising out of, or in connection with, the Supplies.

(f) If required by Dormway, Dormway may specify key personnel (including key or nominated subcontractors or suppliers) to be retained by the Supplier for the duration of this Agreement. If required, the Supplier shall ensure that the nominated key personnel are dedicated to the Supplies on a full-time basis and if not, the Supplier must immediately notify Dormway and, at its cost, take steps to arrange appropriate replacement personnel for approval by Dormway.

(g) Where the Supplier intends to subcontract any part of the Supplies that involve high risk construction work (including as that term is defined under the Work Health and Safety Regulation 2011), with its request for approval under clause 14(b), the Subcontractor must submit to Dormway particulars in writing of the work to be subcontracted and the name and the address of the proposed subcontractor and any other information which Dormway reasonably requests, including the proposed subcontract documents.

(h) Notwithstanding any other clause of this Agreement, Dormway may, at any time, direct the Supplier to have removed from the Site or from any activity connected with the Supplies, within such time as Dormway directs, any person employed in connection with the Supplier who, in Dormway's absolute discretion, is a risk to the safety of the Site or others, a risk of causing reputational damage to Dormway or the principal under the Head Contract, guilty of misconduct or is incompetent or negligent.

15. Time

(a) The Supplier must carry out the Supplies in such a way to reach Practical Completion by the Date for Practical Completion.

(b) Upon becoming aware of anything which will cause a delay to the carrying out of the Supplies, the Supplier shall promptly (and within 1 Business Day of becoming aware) give the other party written notice of that cause and the estimated delay.

(c) The Supplier may make a written claim for an Extension of Time ('EOT') to the Date for Practical Completion only if the following conditions are met:

(i) the Supplier is, or will be, delayed in achieving Practical Completion by the Date for Practical Completion;

(ii) the delay is caused by a Qualifying Delay;

(iii) the Supplier could not reasonably have been expected to foresee the delay at the date of the Supplier's acceptance of this Agreement; and

(iv) the Supplier has given Dormway an EOT claim in writing within 5 Business Days of becoming aware of, or when the Supplier reasonably should have become aware of, the Qualifying Delay, specifying adequate details on the expected length of delay, the cause of delay, the steps taken to mitigate the delay, and any other details requested by Dormway.

(d) Within a reasonable time, Dormway will give the Supplier written notice assessing the Supplier's EOT claim.

(e) Dormway may, at any time, direct an EOT for any reason in its sole discretion by giving written notice to the Supplier.

(f) If the Supplier does not reach Practical Completion by the Date for Practical Completion, Dormway will be entitled to levy liquidated damages as specified in the Purchase Order, for every day after the Date for Practical Completion to and including the Date of Practical Completion or earlier termination of the Agreement. The amount of any liquidated damages shall be a debt due and payable by the Supplier to Dormway. Where the Purchase Order does not state a rate for liquidated damages or where liquidated damages are listed as a nominal amount, stated as nil or are otherwise not applicable, invalid, void or unenforceable, Dormway will be entitled to recover damages at law from the Supplier for all costs, losses and other liabilities suffered or incurred by Dormway in connection with the Supplier's failure to reach Practical Completion by the Date for Practical Completion.

(g) If the Supplier does not comply strictly with the requirements of this clause 20, including the claim requirements under clause 15(c)(iv) it will not be entitled to make any claim, nor be granted an EOT. An EOT granted under this clause 15 is the Supplier's sole remedy for any delay and the Supplier is not entitled to any payment for delay or disruption cost.

16. Security

(a) If specified as applicable in the Purchase Order, Security must be provided by the Supplier to Dormway in accordance with the Purchase Order.

(b) If the Price increases, Dormway may require additional Security be provided which the Supplier must provide.

(c) Dormway may have recourse to Security if an amount is due from the Supplier to Dormway which remains unpaid by the time specified by Dormway for payment or for any payment claimed by Dormway from the Supplier under or in connection with the Agreement at any time.

(d) Security will be released to the Supplier as set out in the Purchase Order.

17. Suspension

(a) Dormway may, at any time and for any reason, direct the Supplier to suspend the whole or any part of carrying out the Supplies for such time that Dormway thinks necessary, by giving written notice to the Supplier.

(b) Subject to clause 17(c), the Supplier shall not be entitled to any payment or to make any claim for any suspension.

(c) The Supplier shall be entitled to claim for an EOT for a suspension directed by Dormway, in accordance with clause 15(c) unless the suspension was made necessary or arose from any act, default or omission of the Supplier.

18. Dispute Resolution

(a) If a difference or dispute (together called a 'dispute') between the parties arises in connection with this Agreement, then as a pre-condition to litigation, either party shall give the other a written notice of dispute identifying and detailing the dispute.

(b) Within 10 Business Days of giving a notice of dispute, the parties shall confer at least once to resolve the dispute or agree on methods of doing so. At every such conference, each party shall be represented by a person having authority to agree to such resolution or methods. All aspects of every such conference except the fact or occurrence shall be privileged.

(c) To the extent any dispute under the Head Contract relates to the Supplies, the Supplier shall provide all reasonable assistance as requested by Dormway to assist Dormway to resolve the dispute in accordance with relevant procedures under the Head Contract. At the direction of Dormway, any current dispute under this Agreement will be paused pending finalisation of the Head Contract dispute concerning the Supplies. The Supplier shall have no claim arising out of or in connection with any assistance provided by the Supplier to Dormway or any paused dispute contemplated by this clause.

(d) Nothing herein shall prejudice the right of a party to seek injunctive or urgent declaratory relief.

19. Intellectual Property

(a) Except as provided otherwise in the Agreement, title and ownership of Intellectual Property Rights (other than third party Intellectual Property Rights) associated with the Supplies and any documentation provided by the Supplier pursuant to the Agreement is vested and shall vest in Dormway.

(b) The Supplier shall retain the Intellectual Property Right in any original ideas, equipment processes or systems created outside the terms of the Agreement and used in carrying out the Supplies, and the Supplier must grant or cause to be granted to Dormway an irrevocable licence to use such materials for any purpose the Supplies are provided

(c) The Supplier shall indemnify Dormway against any claim, liability, loss or damage arising out of or in connection with the Supplies and the other materials and documents used to provide the Supplies that infringes the Intellectual Property Rights of a third party.

20. Confidentiality and Privacy

(a) The Supplier must keep all information disclosed by Dormway in connection with this Agreement

confidential and must only disclose such information with Dormway's prior written consent (unless otherwise required by law).

(b) If required by Dormway, the Supplier must enter into a separate confidentiality agreement in the form directed by Dormway.

(c) To the extent applicable, the Supplier and its personnel must comply with all requirements of the *Information Privacy Act 2009* (Qld) ('IPA'), including by ensuring that all 'personal information' as defined under the IPA is protected against loss and against unauthorised access, use, modification, disclosure or other misuse and not disclosed without the consent of Dormway (unless otherwise required by law).

21. Media

(a) The Supplier must not issue, without Dormway's prior written consent, any advertisement, information, publication, document or article for publication concerning the Supplies, the project, Dormway or the principal under the Head Contract in any media.

(b) All media enquiries concerning the Supplies or the project must be referred to Dormway.

22. Records

The Supplier must make and keep accurate records of the Supplies, including, without limitation, records of progress of the Supplies, photographs of the Supplies in progress, quality assurance records and reports, results of any testing and all supporting documents, invoices, time sheets, related financial statements and any other information required to be recorded by Dormway. The Supplier must not divulge these records to anyone other than Dormway and must make these records available for inspection at any time by Dormway.

23. Services, Existing Assets and Service Interruptions

(a) The Supplier is responsible for determining the location of any Services and Utilities as may be at the Site and for identifying and arranging for any Services and Utilities required to perform the Supply.

(b) The Supplier must protect all existing Services and Utilities from damage or disruption, and make good, at its cost, any damage or disruption caused to any existing or new Services and Utilities.

(c) The Supplier must take all measures to allow any existing assets operating on or around the Site to continue to be used and operated during the carrying out of the Supplies and not disrupt, interrupt or interfere in any way with the use, daily operations or access of the existing assets (except where expressly permitted in writing by Dormway) or of any property or premises associated with the existing assets or adjoining the Site.

(d) If during the performance of the Supplies, the Supplier is required to undertake a Service Interruption, the Supplier shall obtain and comply with any relevant permit required by Dormway, the principal under Dormway's Head Contract or an authority in connection with the Services and not perform any Service Interruption without the prior written approval of Dormway.

(e) The Supplier indemnifies Dormway against any claim, liability, loss or damage arising out of or in connection with a breach of this clause 23.

24. Urgent Protection

(a) If urgent action is necessary to protect the Supplies, other property or people or to maintain progress to ensure the Date for Practical Completion is achieved (including but not limited to action that is required as a result of flooding), and the Supplier fails to take the action, in addition to any other remedies of Dormway, Dormway may take the necessary action.

(b) If the action was action which the Supplier should have taken at the Supplier's cost, Dormway shall certify the cost incurred as a debt due from the Supplier to Dormway.

(c) If time permits (as determined by Dormway), Dormway shall give the Supplier prior written notice of its intention to take the action pursuant to this clause.

25. Dormway may act

(a) Without limiting any other provisions of the Agreement, Dormway may, either itself or by a third party, carry out an obligation under the Agreement (including the requirements of a direction by Dormway) which the Supplier was obliged to carry out but which it failed to carry out within the time required in accordance with the Agreement or as directed by Dormway.

(b) Where the circumstances permit, Dormway shall provide reasonable notice to the Supplier prior to Dormway carrying out the Supplier's obligation in accordance with this clause, however Dormway is not under any obligation to first notify the Supplier before carrying out the Supplier's obligation.

(c) The costs, expenses and damages suffered or incurred by Dormway in so carrying out such an Agreement obligation shall be a debt due and payable from the Supplier to Dormway.

(d) The Supplier indemnifies Dormway against any costs, losses, expenses and damages payable by Dormway to the principal under the Head Contract arising out of a failure of the Supplier to carry out an obligation.

26. Conflicts of Interest

(a) The Supplier warrants that neither it or its personnel have engaged in, or will engage in, any collusive, anti-competitive conduct and warrants that it and its personnel do not hold any office or possess any property, are not engaged in any business or activity and do not have any obligations where a conflict of interest is created, or might appear to be created, in conflict with its obligations under this Agreement, except as previously disclosed to Dormway and the principal under the Head Contract.

(b) If Dormway or the principal requests, the Supplier must obtain from its personnel a signed conflict of interest declaration in a form acceptable to Dormway or the principal (as applicable).

27. General

(a) The Supplier shall not assign this Agreement or any right, benefit or interest under this Agreement or subcontract any part of the Supplies without Dormway's written approval.

(b) Notwithstanding any other provision of this Agreement, Dormway shall not be liable upon any claim (other than a claim for payment of the Price under clause 4) unless a written notice of claim is given to Dormway within 5 Business Days after the date the Supplier ought reasonably have become aware of the facts or circumstances upon which the claim is based.

(c) The laws of Queensland shall apply to this Agreement.

(d) The Supplier shall continue to carry out the Supplies despite any dispute. Without limiting the provisions of any law about the giving of notices, notices under this Agreement may be given by email to the address of a party identified in the Purchase Order or as otherwise advised from time to time.

28. Definitions and Interpretation

In these Purchase Order Standard Terms and Conditions, except to the extent that the context otherwise requires:

"Agreement" means the agreement between Dormway and the Supplier set out in the Purchase Order and these Purchase Order Standard Terms and Conditions;

"Business Day" means any day which is not a weekend day or public holiday at the Site but for clause 4(b)(i)(A) only, does not include 22 to 24 December, 27 to 31 December and 2 to 10 January;

"COR Laws" means laws relating to fatigue management, speed and mass, dimension and load compliance requirements generally referred to as "Chain of Responsibility" laws or "Heavy Vehicle" laws;

"COR Systems" means policies, procedures, standards, training and systems designed to ensure, so far as is reasonably practicable, compliance with COR Laws;

"Date for Delivery" has the meaning in the Purchase Order;

"Date for Practical Completion" means the date stated in the Purchase Order as the Date for Practical Completion and/or, in respect of Goods, the Date for Delivery, as may be adjusted from time to time;

"Date of Practical Completion" means the date when Practical Completion of the Supplies is achieved.

"Defect" has the meaning in clause 5;

"Defects Liability Period" means the period of 12 months commencing on the date of practical completion under the Head Contract, or if a period is stated in the Purchase Order, that period;

"Delivery Address" has the meaning in the Purchase Order;

"Emergency" means a circumstance where there is an immediate or potential threat to:

(a) the health or safety of any person;

(b) the structural integrity of Dormway's or the principal's existing assets, the Site or the Supplies;

(c) the environment;

(d) the Supplier's ability to discharge its functions and satisfy its obligations under the Agreement;

"Fit for Purpose" means the Supplies are fit for:

(a) the purpose required by the Agreement (including the performance, design (if any) and functional requirements); and

(b) any usual purpose which, having regard to the nature of the Supplies, could be reasonably inferred by a person experienced and competent in the design, construction and supply of goods and services the same of or similar to the Supplies.

"Goods" has the meaning in clause 2;

"Good Industry Practice" means the standards, practices, policies, methods, acts and procedures generally followed or approved by the relevant industries and contractors or suppliers in Australia with respect to the Supplies, and that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a prudent, experienced and competent supplier, having exercised all reasonable enquiries and investigations for a project of a similar nature to the Supplies;

"Head Contract" means any contract or other agreement between Dormway and a principal or other

third party under which Dormway is engaged to carry out or provide goods, works or services to which the Supplies relate (whether or not a copy has been provided to the Supplier), which Dormway may make relevant portions available on request.

"Head Contract Works" means the whole of the work to be carried out and completed in accordance with the Head Contract;

"Hire Period" has the meaning in the Purchase Order;

"Intellectual Property Rights" means any and all beneficial and legal ownership and intellectual and industrial protection rights throughout the world both present and future, including without limitation, rights in respect of or in connection with any confidential information, copyright, moral rights, inventions, trademarks, service marks, designs, patents, registered design or name, or other protected right;

"Modern Slavery Act" means the *Modern Slavery Act 2018* (Cth) and any related or similar laws in any jurisdiction;

"Policies" means all policies, procedures, requirements or other documents (including, without limitation, any codes of conduct or policies of Dormway or the principal under Dormway's Head Contract) that relate to the Agreement, Site or to the Supplier undertaking the Supplies as provided by Dormway to the Supplier throughout the duration of this Agreement, as may be amended or updated from time to time.

"Practical Completion" means the stage of the Supplies when:

(a) all Goods:
  (i) have been delivered in accordance with the Agreement (including any particular requirements in the Purchase Order); and
  (ii) are substantially in accordance with the requirements of the Agreement, except for minor omissions and Defects which do not prevent the Goods from being reasonably capable of being used for their intended purpose;
(b) all Services have been provided in accordance with the Agreement;
(c) all Works are complete except for minor Defects which do not prevent the Works or the Supplies from being Fit for Purpose;
(d) those tests which Dormway requires to be carried out and passed before the Supplies reach Practical Completion have been carried out and passed;
(e) the Supplies have been successfully commissioned in accordance with all requirements and Policies of Dormway;
(f) as-constructed drawings and documents which have been certified by a Registered Professional Engineer (Queensland) in accordance with the *Professional Engineers Act 2002* (Qld) and other information required by Dormway for record purposes, or for the use, operation and maintenance of the Supplies, have been supplied;
(g) all forms and other certification documentation and approvals required by any authority or any law and any warranties, certificates, permits, documents and information which, in Dormway's opinion, are reasonably required from the Supplier for the use, operation and maintenance of the Supplies have been provided to Dormway;
  (i) the Supplier has provided to relevant persons all training reasonably required for the use, operation and maintenance of the Supplies and has, to the extent applicable, provided all keys for every lock installed within the Site, with each key labelled in a manner approved by Dormway; and
  (ii) the Supplier has removed all of its plant from Site and has cleaned up the Site to the satisfaction of Dormway;

"Price" means the total amount payable to the Supplier by Dormway as set out in the Purchase Order, or as adjusted under the terms of this Agreement;

"Purchase Order" means the formal "Purchase Order" issued by Dormway to the Supplier for the Supplies which Dormway requires;

"Purchase Order Standard Terms and Conditions" means these standard terms and conditions;

"Qualifying Delay" means:

(a) a breach of the Agreement by Dormway;
(b) a Variation to the Supplies in accordance with clause 13, which causes a delay to the carrying out of the Supplies; or
(c) a suspension referred to in clause 17(c).

"Security" means cash retention, an unconditional undertaking given by a financial institution or major Australian trading bank approved by Dormway or another form of security approved by Dormway;

"Services" has the meaning in clause 2;

"Services and Utilities" means telecommunications, data cables, natural gas, fuel, electricity, water and other services and utilities that may be existing on or around the Site or required to carry out the Supplies.

"Service Interruption" means any:

(a) shutdown (either partially or in full) of the water or sewer network;
(b) intervention (either partially or in full) of the water or sewer network;
(c) disruption to any electrical supply or the supply of goods or other services to the Site or the water or sewer network; and
(d) works required to be performed:
  (i) on any 'live' water or sewer network;
  (ii) within a sewerage treatment plant; and
  (iii) on any plant in operation,

"Site" means the site specified in the Purchase Order;

"Supplier" means the relevant party providing the Supplies or carrying out subcontract work as identified in the Purchase Order; and

"Supplies" has the meaning in clause 2.