



Supply Agreement – Goods and Services

0001-LG-001-00

Version: 1

Effective from: 26/11/2018

Approval

	Name	Position	Signature
Author	Tony Newman	Manager Commercial & HSEQ	
Author			
Approving Director	Julian Khojasteh	Director	

Amended Record

Approval Date	Version	Description
	1	First issue



Supply Agreement – Goods and Service

Document Number: 0001-LG-001
Prepared By: Tony Newman
Document Creation Date: 26-11-2018
Revision Number: 01



Transtech Melbourne Pty Ltd

ABN: 19 079 999 625

45 Willandra Drive, Epping,

3076, Victoria Australia

Phone: +613 9408 3722

Email: t.newman@ttmrail.com.au

www.ttmrail.com.au



DATE OF AGREEMENT: 2019

PARTIES

Transtech Melbourne Pty Ltd (Trading as TTM Rail) (ACN 079 999 625) of 45 Wilandra Drive, Epping, Vic 3076, Australia **(TTM)**

and

....., Australia **(Supplier)**

BACKGROUND

- A. TTM has agreed to engage the Supplier to provide the Goods and/or Services, and the Supplier has agreed to provide the Goods and/or Services, in accordance with the terms and conditions of this Agreement.

FORMAL AGREEMENT

This Agreement is evidenced and incorporated by the following documents:

- (a) the Agreement Details;
- (b) the Standard Terms and Conditions; and
- (c) the Schedules,

and the Supplier acknowledges that it has read, understood and agrees to be bound by the terms and conditions contained in each of the documents referred to in (a)-(c) above by signing below:



Executed as an agreement on _____ 2019

EXECUTED by **Transtech Melbourne Pty Ltd** in accordance with s. 127 of the *Corporations Act 2001* (Cth) being signed by:

Director / Company Secretary

Print name

Director

Print name

EXECUTED by **Pty Ltd** in accordance with s. 127 of the *Corporations Act 2001* (Cth) being signed by:

Director

Print name

Director / Company Secretary

Print name



Schedule 1 – Agreement Details

Fixed Contract Terms

The below fixed contract terms apply to this Agreement and any additional projects

1.	TTM	Transtech Melbourne Pty Ltd ACN 079 999 625	45 Wilandra Drive, Epping, VIC 3076 Phone: 03 9408 3722
		Representative	Julian Khojasteh Email: j.khojasteh@ttmrail.com.au Phone: 03 9408 3722
2.	Supplier Pty Ltd ACN, VIC 3029 Phone: 03
		Representative Email:com.au Phone:
3.	Commencement Date 2019	
4.	Extension Period		
5.	Relevant State	Victoria, Australia	
6.	Expiry Date	
7.	Warranty Period	months from date of delivery	
8.	Payment Terms	30 days EOM	
9.	Insurance Policies	Public Liability \$20,000,000 Product Liability \$20,000,000 Professional Indemnity \$5,000,000 Transit Insurance: Value of goods in transit	
10.	Liquidated Damages	As per individual Project Proforma Contracts	
11.	Liability Cap	100% of Contract Price	
12.	Special Conditions	As per individual Project Proforma Contracts	



'Schedule 2 – Standard Terms and Conditions'

1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In this Agreement (unless the context requires otherwise):

- (a) **"Agreement"** means this supply agreement as amended or supplemented from time to time and includes any annexure, attachment or schedule to it.
- (b) **"Agreement Details"** means the agreement details set out in Schedule 1;
- (c) **"Acceptance Date"** means the date that the Goods are accepted by TTM;
- (d) **"Business Day"** means any day that is not a Saturday or Sunday or a public holiday in the Relevant State;
- (e) **"Confidential Information"** means all secrets, ideas, know how, concepts, information, copyright, computer programs, manuals, precedents, whether in writing or in any other form and all other information relating to business affairs, sales, marketing or promotional information, and any information about the ingredients, mix, make-up or manufacturing processes, which is not considered to be in the public domain, or is identified either as confidential information (if disclosed by TTM) or proprietary information (if disclosed by the Supplier);
- (f) **"Contract Price"** means the price payable under this Agreement specified in any Purchase Order or executed Project Proforma Contract, including any price varied under clause 9;
- (g) **"Deliverables"** means all documents including manuals, instructions or data as specified in the Purchase Order or any executed Project Proforma Contract;
- (h) **"Delivery Date"** means the date and time specified in the Purchase Order or executed Project Proforma Contract, for delivery of Goods and/or Services;
- (i) **"Delivery Point"** means the location(s) specified in any Purchase Order or executed Project Proforma Contract, where the Goods and/or Services will be delivered;
- (j) **"Dispute"** means a dispute arising in connection with this Agreement;
- (k) **"Extension Period"** means any extension period specified in the Agreement Details;
- (l) **"Goods"** means goods specified on the Purchase Order or within any executed Project Proforma Contract;
- (m) **"GST"** means the tax imposed by GST Law;
- (n) **"GST Law"** has the meaning attributed in the *A New Tax System (Goods and Service Tax) Act 1999* (Cth);
- (o) **"Insurance Policies"** means the policies of insurance for not less than the amounts specified in the Agreement Details;
- (p) **"Intellectual Property Rights"** means all intellectual property rights, including but not limited to:
 - (i) patents, copyrights, designs (whether registered or unregistered), trademarks, know-how and any right to have Confidential Information kept confidential; and
 - (ii) any application or right to apply for registration of any of the rights referred to in paragraph (a), but for the avoidance of doubt excludes moral rights and performers' rights;
- (q) **"Job"** means any job ordered by TTM through a Purchase Order;
- (r) **"Laws"** means includes all acts of parliament of Australia and the States, and all regulations, by-laws, awards and orders made there-under, and lawful requirements of public, municipal and other competent authorities in any way affecting or applicable to the Goods and/or the Services;
- (s) **"Liquidated Damages"** means the sum payable by the Supplier to TTM for the late Delivery of the Goods and/or Services as specified in the Agreement Details.



- (t) **“Manufacturer’s Agreement”** means the agreement set out in schedule 5 of the Project Proforma Contract, confirming the adherence to certain standards of manufacturing practice, by the Supplier and its overseas manufacturing partners;
- (u) **“Milestone Dates”** means dates by which Services must be delivered as specified in the Purchase Order or executed Project Proforma Contract;
- (v) **“Party”** means a party to this Agreement;
- (w) **“Project”** means any specific project for the supply of Goods and/or Services entered into in the form of an executed Project Proforma Contract;
- (x) **“Project Proforma Contract”** means a Project specific contract, with terms governed by this Agreement;
- (y) **“Purchase Order”** means an order for Goods and/or Services submitted by TTM to the Supplier;
- (z) **“Schedule”** means a schedule to this Agreement;
- (aa) **“Service Levels”** means the service levels (if any) specified in the Purchase Order or executed Project Proforma Contract;
- (bb) **“Service”** means the service specified on any Purchase Order or an executed Project Proforma Contract; **“Special Conditions”** means any conditions agreed to within an executed Project Proforma Contract;
- (cc) **“Specifications”** means the detailed description of the Goods and/or Services in any Purchase Order (or referenced part number/datasheet), or the specifications detailed in an executed Project Proforma Contract;
- (dd) **“Standard Terms and Conditions”** means the standard terms and conditions of this Agreement as set out in Schedule 2;
- (ee) **“Supplier’s Personnel”** means approved subcontractors, employees, agents and other person/s employed or engaged by the Supplier to perform their obligations under this Agreement;
- (ff) **“Term”** means the period commencing on the Commencement and ending on the Expiry Date unless terminated earlier in accordance with this Agreement, and includes any extension and;
- (gg) **“Variation”** means any variation in the terms of this Agreement in accordance with clause 9; and
- (hh) **“Warranty Period”** means the period specified in the Agreement Details.

1.2 INTERPRETATION

- (a) Defined terms used in this Agreement are set out in clause 1.1 of Schedule 2.
- (b) In resolving inconsistencies in this Agreement, the documents have the following order of priority:
 - (i) if applicable, the Special Conditions (set out in the Purchase Order or the executed Project Proforma Contract);
 - (ii) the Standard Terms and Conditions; and
 - (iii) the remaining Schedules and attachments to this Agreement.
- (c) In this Agreement (unless the context requires otherwise):
 - (i) a reference to any legislation includes:
 - (ii) all legislation, regulations and other forms of statutory instrument issued under that legislation;
 - (iii) any modification, consolidation, amendment, re-enactment or substitution of that legislation;
 - (iv) a word in the singular includes the plural and a word in the plural includes the singular;
 - (v) a reference to two or more persons is a reference to those persons jointly and severally;
 - (vi) a reference to dollars is to Australian dollars; and
 - (vii) a reference to a Party includes that Party’s administrators, successors and permitted assigns.



2. CONTRACT TERM

- 2.1 This Agreement commences on the Commencement Date and continues until the Expiry Date, unless terminated earlier or extended under clause 2.2.
- 2.2 This Agreement may be extended by TTM for the Extension Period by giving reasonable notice prior to the Expiry Date.

3. REPRESENTATIVES

The persons named as Representatives in the Agreement Details, are the first point of contact between the parties and are responsible for overseeing the effective administration of this Agreement including variations and extensions.

4. SUPPLY OF GOODS

- 4.1 If Goods are being supplied under this Agreement, then the Supplier must:
- (a) supply the Goods in accordance with this Agreement;
 - (b) sell the Goods without encumbrance;
 - (c) ensure all Goods, including all materials and equipment used or supplied by the Supplier under this Agreement, and Goods supplied and used as part of the Service, are free of asbestos and asbestos based material;
 - (d) deliver the Goods to the Delivery Point on or before the Delivery Date;
 - (e) comply with TTM's reasonable directions and delivery instructions;
 - (f) provide test evidence for the Goods if required.
- 4.2 If the Supplier cannot comply with any of its obligations under clause 4.1, the Supplier must notify TTM in writing immediately.

5. INSPECTION AND ACCEPTANCE OF GOODS

- 5.1 TTM may inspect the Goods to determine whether to accept or reject the Goods.
- 5.2 TTM must accept the Goods if they conform with the requirements of this Agreement.
- 5.3 Subject to clause 5.4, the Goods are deemed to be accepted either:
- (a) on delivery, if TTM notifies the Supplier that it accepts the goods; or
 - (b) if no notice issued by TTM, then 5 Business Days after delivery of the Goods to the Delivery Point.
- 5.4 If the Goods are consumable products and the Goods are found to be defective when first used, then TTM may reject the Goods under clause 5.5.
- 5.5 If TTM rejects the Goods due to non-conformity with the requirements of this Agreement, then TTM must notify the Supplier as soon as possible and require the Supplier at the Supplier's sole cost, and at TTM's election either:
- (a) resupply the Goods and remove the non-conforming Goods from the Delivery Point; or
 - (b) repair the Goods.
- 5.6 Acceptance of the Goods by TTM does not relieve the Supplier of any of its obligations under this Agreement.
- 5.7 Risk and title in the Goods will pass to TTM upon TTM's acceptance of the Goods. The Supplier bears the risk in the Goods until such time as TTM has accepted the Goods under this clause 5.



6. SUPPLY OF SERVICES

- 6.1 If Services are being supplied under this Agreement, then the Supplier must ensure that the Supplier's Personnel provide the Services described in the Purchase Order or the executed Project Proforma Contract in accordance with the terms and conditions of this Agreement.
- 6.2 Where the Agreement Details specifies Representatives then the Services must be delivered by those Representatives.
- 6.3 The Supplier may substitute a Representative with the consent of TTM subject to TTM being satisfied as to the expertise, experience and suitability of the substitute.
- 6.4 The Supplier must ensure that Services are delivered:
 - (a) In accordance with this Agreement;
 - (b) in a professional and cost-effective manner using that standard of skill, diligence, prudence, foresight, judgement and care that would reasonably be expected from a prudent, expert and experienced provider of services which are similar to the Services and, without limiting any other obligation imposed on the Supplier, to the best of its ability;
 - (c) in accordance with the warranties in clause 11.4; and
 - (d) by any Milestone Dates.

7. WARRANTY PERIOD

- 7.1 If during the Warranty Period, the Goods and/or Services fail to comply with the warranties in clause 11, then TTM may in its absolute discretion require that the Supplier, within 10 Business Days of notification from TTM (or such other time as is agreed), and at its own expense:
 - (a) repair or replace the Goods; or
 - (b) re-perform the Services.
- 7.2 If the defective Good is not repaired or replaced and/or the defective Service is not re-performed within the stated time, and to the satisfaction of TTM:
 - (a) TTM may engage others to repair or replace the defective item or re-perform the defective Service; and
 - (b) the Supplier will bear all reasonable cost incurred by TTM in so doing, together with any loss or damage suffered by TTM because of the engagement of others.

8. DELIVERABLES

The Supplier must provide the Deliverables (if any):

- (a) in compliance with any specifications set out in this Agreement;
- (b) at the time or times specified in this Agreement; and
- (c) if the Deliverables are documents, then the Supplier must ensure that they are in the English language and of a high professional standard in terms of their presentation, accuracy and scope.

9. VARIATION

- 9.1 TTM may direct the Supplier (in writing) to vary:
 - (a) the quantity of the Goods to be supplied under this Agreement;
 - (b) the Services to be performed under this Agreement;
 - (c) a Delivery Date;
 - (d) the Delivery Point;



- (e) the methodology or other requirements relating to the delivery of the Goods or any installation included in the Services; or
 - (f) the methodology of or other requirements relating to the Services.
- 9.2 Within 5 Business Days (or such other period as agreed), from receipt of the written Variation under clause 9.1, the Supplier must provide TTM with a written quote (“Variation Quote”) setting out any impact of the Variation on:
- (a) the timing of Delivery Dates;
 - (b) the Contract Price.
- 9.3 The Parties must negotiate in good faith to agree on the price and other terms applicable to the Variation.
- 9.4 If the Parties agree in writing to the terms of the Variation, then:
- (a) the Supplier must deliver the required Goods or perform the Service as varied by the Variation as specified in the Variation Quote (or as otherwise agreed);
 - (b) TTM must pay the difference (if any) in the Contract Price as specified in the Variation Quote (or as otherwise agreed); and
 - (c) the terms and conditions of this Agreement are varied by the terms of the Variation.
- 9.5 If the Parties are unable to agree on the price and other terms applicable to the Variation, then this Agreement will continue as if no Variation had been requested.

10. QUALITY ASSURANCE

- 10.1 The Supplier agrees to maintain ISO9001 accreditation for the duration of this Agreement and supply the Goods and/or Services in accordance with this quality system.

11. SUPPLIER’S WARRANTIES

- 11.1 If Goods are being supplied under this Agreement, then the Supplier warrants that it has good and unencumbered title to the Goods and the Goods:

- (a) conform with any description applied and any sample provided by the Supplier;
- (b) are new (unless otherwise specified);
- (c) are free from defects in material, manufacture and workmanship;
- (d) conform to any applicable Australian standards or other standards nominated in this Agreement;
- (e) conform with any Laws;
- (f) conform to the Specifications provided by the Supplier;
- (g) are of merchantable quality;
- (h) are installed correctly (if the Supplier is responsible for installation);
- (i) are fit for their intended purpose; and
- (j) are manufactured and supplied without infringing any person’s Intellectual Property Rights.

- 11.2 The Supplier must ensure that TTM receives full benefit of any manufacturer’s warranties in respect of the Goods.

- 11.3 During any Warranty Period, any defects in the Goods must be rectified at the Supplier’s expense.

- 11.4 If Services are being supplied under this Agreement, then the Supplier warrants that the Services will:

- (a) comply with the description of Services in the Purchase Order or the executed Project Proforma Contract;



- (b) be provided with due care and skill;
- (c) be provided in a timely and efficient manner;
- (d) be provided in accordance with the best practices current in the Supplier's industry;
- (e) be supplied without infringing any person's Intellectual Property Rights;
- (f) be performed by the Supplier's Personnel; and
- (g) be supplied in the most cost-effective manner consistent with the required level of quality and performance.

12. SUPPLIER'S PERSONNEL

- 12.1 The Supplier must only use the Supplier's Personnel to supply the Goods and/or Services.
- 12.2 If TTM gives the Supplier notice in writing requiring any of the Supplier's Personnel to be withdrawn from supplying the Goods or providing the Services, the Supplier must immediately comply with the notice and provide replacement Supplier's Personnel acceptable to TTM.
- 12.3 TTM reserves the right to refuse entry to any TTM's premise, to any of the Supplier's Personnel.
- 12.4 The Supplier remains responsible for obligations performed by the Supplier's Personnel to the same extent as if such obligations were performed by the Supplier.

13. PRICE AND PAYMENT

- 13.1 In consideration for the supply of the Goods and/or the Services, TTM will pay the Contract Price in accordance with the Payment Terms.
- 13.2 Unless otherwise expressly stated the Contract Price is exclusive of GST.
- 13.3 The Supplier is entitled to invoice TTM for payment in respect of the Goods and/or Services, when the Goods have been supplied and accepted under clause 5, and the Services have been supplied and accepted under clause 6, and in accordance with this Agreement.

14. Set-off

Any debt due from the Supplier to TTM under this Agreement may be deducted by TTM from any sum which is or may become due and payable to the Supplier.

15. GST

- 15.1 If a Party ("GST Supplier") makes a supply to another party ("GST Recipient") in connection with this Agreement (including the supply of the Services), the GST Recipient must pay the GST Supplier an amount equal to any GST payable by the GST Supplier in relation to that supply ("GST Amount"), unless the amount payable by the GST Recipient for that supply is already expressed to be inclusive of GST.
- 15.2 The GST Amount must be paid at the same time and in the same manner as making payment of any monetary consideration on which the GST is calculated. If the GST Amount is not calculated on monetary consideration, the GST Recipient must pay the GST Amount within 7 days of receipt of a written demand from the GST Supplier.



- 15.3 The GST Recipient's obligation to pay the GST Amount is conditional on the GST Supplier providing the GST Recipient with a tax invoice that complies with the relevant law. The GST Supplier must do all other things reasonably requested by the GST Recipient to enable the GST Recipient to obtain any input tax credit to which it is entitled.
- 15.4 The amount recoverable on account of GST under this clause 15 will include any fines, penalties, interest and other charges incurred as a result of late payment or other default by the GST Recipient under this Agreement.
- 15.5 If a Party is required to pay, reimburse or indemnify another Party for any cost, expense or other amount that the other Party has incurred or will incur in connection with this Agreement, that amount will be reduced by any part thereof for which the other Party (or representative member if this is not the other Party) can claim an input tax credit.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1 Nothing in this Agreement affects the ownership of Intellectual Property Rights created or existing before the Commencement Date.
- 16.2 The Supplier acknowledges and agrees that all rights, title and interest in any new Intellectual Property developed or created specifically in connection with the supply of the Goods and/or Services under this Agreement will vest upon creation in TTM.
- 16.3 Subject to payment of the Contract Price, the Supplier grants to TTM a perpetual, irrevocable, royalty free, fee free license to use, consume or sell the Goods on and from the Commencement Date.

17. INSURANCE

- 17.1 The Supplier must effect and maintain the Insurance Policies.
- 17.2 The Insurance Policies must be held for a period of no less than Six (6) years after the expiry of the Warranty Period.
- 17.3 The Supplier must, if requested by TTM, provide evidence of insurance by providing certificates of currency for each of the Insurance Policies.

18. INDEMNITY

The Supplier will be liable for, and will indemnify and keep TTM (its affiliates, officers, subcontractors and suppliers, agents and employees) indemnified from and against all liabilities claims, loss, damage, cost or expense suffered or incurred arising directly or indirectly from:

- (a) any breach by the Supplier or the Supplier's Personnel of any term of this Agreement;
- (b) any personal injury, illness, or death to any person or damage to any property or any other loss or damage of any kind whatsoever caused or contributed to by the Goods and the performance or non-performance of any services by the Supplier or the Supplier's Personnel under this Agreement;
- (c) any negligence or willful act or omission by the Supplier or the Supplier's Personnel in connection with the performance of the Supplier's obligations under this Agreement;
- (d) any claim made against TTM by or on behalf of any of the Supplier's Personnel, or by any government or regulatory authorities, in respect of any relevant legislation concerning pay-roll tax, remuneration, income tax, workers compensation, annual leave, long service leave, superannuation or any applicable award, determination or agreement of a competent industrial tribunal;
- (e) any penalty imposed for breach of any Laws in connection with the performance of the Supplier's obligations under this Agreement; and



- (f) any claim that the Goods, anything the Supplier does in supplying TTM with the Goods or providing TTM with any Services, or TTM's use of the Goods infringes or allegedly infringes the Intellectual Property Rights of any person.

19. LIQUIDATED DAMAGES

- 19.1 If the Supplier fails to deliver the Goods in accordance with this Agreement by the applicable Delivery Date or to achieve Services by a Milestone Date, the Supplier shall be indebted to TTM for Liquidated Damages in respect of the delay for the duration of the period commencing from the applicable Milestone Date until the date on which all Services that were required to have been achieved on that Milestone Date have been achieved or the period from the applicable Delivery Date until the date all of the Goods that were required to be delivered on that Delivery Date have been delivered in accordance with this Agreement (as the case may be).
- 19.2 Any Liquidated Damages payable under this clause 19 will be a debt due from the Supplier to TTM and may be deducted by TTM from any amount owing to the Supplier under this Agreement.
- 19.3 To the extent that TTM does not exercise its right under clause 14 to set off any Liquidated Damages referred to in this clause 19 from any amount owing to the Supplier or there is an insufficient amount on account of Liquidated Damages pursuant to this clause 19 to cover any Liquidated Damages that become payable under this clause 19, the Supplier must, on demand by TTM, pay to TTM the outstanding Liquidated Damages (calculated on a weekly basis or part thereof).
- 19.4 The Parties agree that the amount of the Liquidated Damages has been determined by TTM in good faith and is a genuine pre-estimate of the anticipated or actual loss that TTM will suffer if the Goods are not delivered by the applicable Delivery Date or the Services are not achieved by the applicable Milestone Dates.
- 19.5 The Parties agree that the Liquidated Damages payable under this clause 19 are reasonable and not intended as a penalty.

20. LIMITATION OF LIABILITY

Notwithstanding any other provision of this Agreement, and except to the extent that liability cannot be limited or excluded by Law, the total aggregate liability of the Supplier and the Supplier's Personnel, to TTM whether arising under or in connection with this Agreement or the performance or non-performance of, or anything incidental to, this Agreement, is limited to the Liability Cap.

21. CONFIDENTIAL INFORMATION

- 21.1 Subject to this clause 21, neither Party may disclose any Confidential Information belonging to the other Party except as genuinely and necessarily required for the purpose of this Agreement.
- 21.2 A Party may disclose Confidential Information belonging to the other Party:
 - (a) to an employee, agent, adviser or approved subcontractor of the Party, on a "need to know" and confidential basis;
 - (b) as required by Law or a court order;
 - (c) in accordance with any parliamentary or constitutional convention;
 - (d) for the purposes of prosecuting or defending proceedings.
- 21.3 The Parties may mutually agree to disclose Confidential Information.

22. DISPUTE RESOLUTION

- 22.1 A Party must not start court proceedings (except proceedings seeking interlocutory relief) unless it has complied with this clause 22.



- 22.2 A Party claiming that a Dispute has arisen must give the other Party notice of the details of the Dispute (“Dispute Notice”).
- 22.3 Within 5 Business Days of receipt of the Dispute Notice (or such other period as may be agreed by the Parties), the Representatives (or if no Representatives are specified, persons nominated by each Party) must meet and use reasonable endeavors to resolve the Dispute.
- 22.4 If the Dispute cannot be resolved within the time period specified in clause 22.3, either Party may request the Dispute be submitted to a mediator for mediation. If that request is made, each Party shall participate in the mediation in good faith. The mediation must be held in accordance with, and subject to, the Australian Disputes Centre Mediation Guidelines and Rules. The Parties may commence legal proceedings in a court of law if the mediation process does not result in resolution of the relevant Dispute within thirty (30) days from the date of the Dispute Notice (or such other period as may be agreed by the Parties).

23. TERMINATION

- 23.1 TTM may terminate this Agreement immediately upon giving notice in writing to the Supplier if:
- (a) TTM reasonably forms the opinion that the Supplier will be unable to perform its obligations under this Agreement;
 - (b) the Supplier is in breach of this Agreement and has not rectified such breach within 10 Business Days of TTM giving notice in writing to the Supplier requiring the rectification of such breach;
 - (c) TTM becomes aware that the Supplier is in breach of its statutory obligations with respect to its employees or any of the Supplier’s Personnel;
 - (d) the Supplier fails to comply with a notice issued under clause 11.1; or
 - (e) the Supplier fails to disclose a conflict of interest under clause 26;
 - (f) the Supplier suffers or, in the reasonable opinion of TTM, is in jeopardy of becoming subject to any form of insolvency administration or bankruptcy.
- 23.2 TTM may, as its absolute discretion, terminate this Agreement without cause by giving the Supplier 30 days’ notice in writing.
- 23.3 If TTM terminates this Agreement in accordance with clause 23.2:
- (a) the Supplier has no claim against TTM arising out of or in relation to such termination other than the right to be paid for Goods accepted and/or Services provided before the effective termination date; and
 - (b) the Supplier must comply with all reasonable directions given by TTM.

24. EFFECT OF TERMINATION

- 24.1 Any termination of this Agreement by either Party does not affect any accrued rights of either Party.
- 24.2 The completion of the provision of the Services, the supply and delivery of the Goods, nor termination of this Agreement, is to be taken to release a Party from any obligations relating to this Agreement that by their nature survive completion of the provision of the Services, the supply and delivery of the Goods or termination of this Agreement, including, without limitation, all warranties and obligations of indemnity or confidentiality. All such obligations which are capable of having future operation continue in force despite this Agreement being terminated or otherwise fully performed.

25. SUBCONTRACTING

- 25.1 The Supplier must not engage any subcontractor (excluding any Supplier’s Personnel) without the prior written permission of TTM.



25.2 The Supplier remains responsible for obligations performed by the approved subcontractors to the same extent as if such obligations were performed by the Supplier.

26. CONFLICT OF INTEREST

The Supplier must disclose in writing to TTM all actual and potential conflicts of interest that exist, arise or may arise (either for the Supplier or the Supplier's Personnel) in the course of performing its obligations under this Agreement as soon as practical after it becomes aware of that conflict.

27. COMPLIANCE WITH LAWS

The Supplier must comply with the laws in force in the Relevant State in performing its obligations under this Agreement.

28. GOVERNING LAW AND JURISDICTION

28.1 This Agreement is governed by the laws in the Relevant State.

28.2 The courts of the Relevant State have exclusive jurisdiction in connection with this Agreement.

29. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understanding and negotiations in respect of the matters dealt with in this Agreement.

30. NO ASSIGNMENT

The Supplier must not assign, encumber or otherwise transfer any of its rights or obligations under this Agreement without the written approval of TTM.

31. MODIFICATION

No addition to or modification of any provision of this Agreement will be binding upon the Parties unless made by written instrument signed by the Parties.

32. SEVERANCE

32.1 Each word, phrase, sentence, paragraph and clause of this Agreement is severable.

32.2 Severance of any part of this Agreement will not affect any other part of this Agreement.

33. WORK HEALTH & SAFETY

33.1 The Supplier must comply with the *Work Health and Safety Act 2012 (Vic)* and all other Laws governing occupational health and safety in the Relevant State at all times, regardless of whether TTM issues directions in that regard or not.

If all or part of the work under this Agreement is to be provided on the premises of TTM and under the direction of TTM, the Supplier must comply with TTM's work health and safety policies, procedures and instructions. If the Supplier becomes aware of any potential hazardous situation on TTM's premises, the Supplier must immediately bring it to TTM's attention.



34. RELATIONSHIP OF PARTIES

34.1 The Parties agree and acknowledge that the Supplier is an independent contractor and that there is no employment relationship between TTM and the Supplier or any person employed or engaged by the Supplier to assist in the supplier of the Goods and/or Services, including the Supplier's Personnel.

34.2 Neither Party shall hold themselves out as partner, employer, employee, agent or principal of the other Party except to the extent specifically authorised by the other Party in writing nor at any time bind or purport to bind the other Party to any agreement or transaction nor pledge the credit of the other Party in any manner whatsoever nor permit the creation of any lien over any property of the other Party.

35. FORCE MAJUERE

Neither Party will be responsible for any delays or errors in its performance or non-performance due to a Force Majeure event. If the Force Majeure conditions continue for a period of more than 14 days either Party may terminate this Agreement by written notice to the other.

36. NOTICES

Any notice required to be given by one Party on the other Party under this Agreement will be deemed to be duly given if it is in writing. Any notice sent by post will be deemed to have been received the 4th Business Day after the day on which it was posted. The Parties' addresses for service are as set out in this Agreement or are such other addresses as may be notified in writing to the other after the date of this Agreement.

37. SPECIAL CONDITIONS

The Special Conditions (if any) form part of this Agreement and to the extent of any inconsistency, take precedence over the other terms of this Agreement.