

FFI Purchase Order Standard Terms and Conditions

Working with FFI

Thank you for choosing to join us in changing the world. With your help, a pollution-free world, for you and future generations is possible.

Our values are at the heart of everything we do. They are Safety, Family, Empowerment, Frugality, Stretch Targets, Integrity, Enthusiasm, Courage and Determination, Generating Ideas and Humility. Each are core threads, all of equal importance, tightly woven together, ingrained in the fabric and character of our organisation and anyone who represents us.

We are a company with a conscience and strive to create thriving communities, wherever we work. We insist upon equal education outcomes for girls and boys to drive employment equality, No Modern Slavery in formal and informal workforces, Zero forced, bonded or compulsory labour and Zero forced marriage, and zero child marriage.

Are you with us?

If so, outlined below are terms on which we can work and together change the world.

Purchase Order Standard Terms and Conditions (V1.2)

1 Our Agreement

- 1.1 The terms of Our Agreement are comprised of the Purchase Order, these Standard Terms and Conditions and all other documents annexed to the Purchase Order or this document or specifically incorporated by reference.
- 1.2 If there is ambiguity, conflict, discrepancy or inconsistency between the documents comprising Our Agreement, the following order of precedence shall apply:
- the Purchase Order;
 - these Standard Terms and Conditions; and
 - any other documents forming part of Our Agreement.
- 1.3 Our Agreement does not confer upon You any exclusivity in respect of the supply of any Goods and/or Services.
- 1.4 Any terms and conditions created or supplied by You, in respect of the Goods and/or Services, will be of no legal effect and will not constitute part of Our Agreement.

2 Acting with Integrity

Modern Slavery and Human Rights

- 2.1 FFI is committed and works to comply with Legislation relevant to Modern Slavery across its business, to respect Human Rights and works to align its business with the UNGPs and the VPI, and expects the same of its contractors .
- 2.2 You warrant that:
- You do not engage in any conduct which is inconsistent with Human Rights, including as outlined in the UNGPs and the VPI, nor do You engage in Modern Slavery (in the event of ambiguity the highest standard applies);
 - You investigate the risk of Modern Slavery within Your operations, and those of Your supply chain;
 - You assess and address Human Rights and Modern Slavery risks, including implementing appropriate due diligence and remediation programs;
 - You have, or are working to develop and establish, the necessary processes, procedures, investigation and compliance systems appropriate to Your size and circumstances in place to undertake the actions in clauses 2.2(b) and 2.2(c);
 - You will notify FFI as soon as possible of any confirmed instances of Modern Slavery and conduct inconsistent with Human Rights within Your operations or those in Your supply chain, and the actions undertaken by You to remedy the issue;
 - upon request, and within a reasonable time specified by FFI, You will provide evidence to the satisfaction of FFI validating Your compliance with this clause;
 - upon request, You will permit FFI's Personnel or its nominated representatives to undertake verification activities to validate Your compliance with this clause; and
 - You will use reasonable endeavours to include a clause similar to this clause 2.2 in all subcontracts with subcontractors providing goods or services for Our Agreement .
- 2.3 Where:
- You request assistance to comply with clause 2.2; and
 - FFI reasonably determines that You require assistance to comply with clause 2.2,

FFI may, at its sole discretion, provide commercially reasonable assistance to You, which may include training and providing support or guidance to strengthen Your management systems. Any action taken or not taken by FFI under this clause 2.3 is not a waiver by FFI of its rights, claims, or defences under Our Agreement or applicable law.

Sanctions

- 2.4 You warrant and represent that You and Your Personnel, Your Related Bodies Corporate and Your Related Bodies Corporates' Personnel:
- are not a Sanctioned Person;
 - are not violating any applicable Sanctions; and
 - are not engaging with a Sanctioned Person.
- 2.5 If You:
- provide incorrect information in connection with the Sanctions;
 - breach any provision of Our Agreement relating to Sanctions; or
 - Your Personnel, Your Related Body Corporate or Your Related Bodies Corporates' Personnel become a Sanctioned Person,

You must immediately give notice to FFI and FFI may:

- immediately terminate Our Agreement under clause 19.1(b) as a substantial default; and
- claim compensation from You for any damages or losses which FFI suffers.

Export Controls

- 2.6 FFI is committed to complying with Export Control Laws governing the export (including deemed export) or transfer of strategically controlled goods, software, technical data and technologies (**Controlled Items**). FFI expects the same of its contractors.
- 2.7 You warrant that:
- You and Your Personnel will comply with all relevant Export Control Laws;
 - there are no pending or, to Your knowledge, threatened claims against You or Your Personnel with respect to Export Control Laws;
 - there are no actions, conditions or circumstances pertaining to Your export transactions that would reasonably be expected to give rise to any future administrative or criminal violations of Export Control Laws;
 - You and Your Personnel will obtain all export licenses, authorisations and similar documentation required in connection with Controlled Items. This extends to Controlled Items which are supplied by You, and Controlled Items which are supplied by FFI to You and are in Your custody and care as part of Our Agreement;
 - You and Your Personnel will not export or share Controlled Items with any Sanctioned Person, end user or denied party that appears on lists relevant to Export Control Laws; and
 - if requested by FFI, You and Your Personnel will provide export licence determinations for any Controlled Items, including the determination of relevant Export Control Classification Numbers where applicable.

Bribery and Corruption

- 2.8 FFI has a zero-tolerance approach to bribery and corruption and is committed to complying with Anti-Corruption Laws. FFI expects the same of its contractors.
- 2.9 You must not, and must procure that Your Personnel, do not:
- violate any Anti-Corruption Laws;
 - pay or accept any commissions or fees, or make or accept any payments or rebates to or from any employee or officer of FFI or its Related Bodies Corporate, or favour any of those persons with gifts or entertainment of unusual or substantial value, or enter into any business arrangements with any of those persons, that would result in a detriment to FFI or is contrary to fair dealing;
 - provide or offer to provide a benefit or anything of value (which is not legitimately due) to a public official (including a foreign public official) in order to retain or obtain a business advantage; and
 - without limiting paragraph (a), provide bribes (in any form) or facilitation payments to anyone in the course of supplying Goods or Services to FFI, or when representing FFI.
- 2.10 You must, and must ensure that Your Personnel, immediately report to FFI any offer, request, payment, rebate or other benefit, or any receipt of any payment, benefit or rebate of the kind referred to in clause 2.9.

Failure to Comply

- 2.11 Without limiting any remedy to which FFI might otherwise be entitled, FFI may terminate Our Agreement under clause 19.1(b) as a substantial default if FFI determines that:
- You do not remedy, or provide an acceptable plan to remedy, any identified instance of Modern Slavery or conduct inconsistent with Human Rights within the time frame specified by FFI;
 - Our Agreement violates any applicable Sanction;
 - Our Agreement violates any applicable Export Control Laws; or
 - You have violated any applicable Anti-Corruption Laws.

3 Your Performance

- 3.1 You agree to:
- commence the supply of the Goods and/or performance of the Services from the date of the Purchase Order;
 - diligently carry out the supply of the Goods and/or performance of the Services; and

- (c) complete the delivery of the Goods to the Site and/or performance of the Services by the Delivery Date.

3.2 You represent and warrant that:

- (a) You will carry out the Services with due skill and care, in accordance with Good Industry Practice and in compliance with Our Agreement, all applicable Legislation and any applicable international standard
- (b) all Goods supplied will be new and of merchantable quality, fit for their intended purpose, free from any faults or defects, manufactured in accordance with Our Agreement, in compliance with all applicable Legislation and any applicable international standards and free from any encumbrance, lien, mortgage, security or charge; and
- (c) any Equipment You supply (including spare parts and consumable items) is at Your own risk and expense and such Equipment will be maintained in safe and operable working condition, will comply with all Legislation and will be maintained and operated by suitably qualified and competent Personnel, for the duration of Our Agreement. FFI may reject any item of Equipment which it determines is unsafe or unsuitable for the purposes of Our Agreement.

3.3 These warranties remain unaffected notwithstanding any information which FFI provides to You.

4 Rewarding Your Performance

4.1 In consideration for the supply of the Goods and/or Services, FFI will pay You the Price.

4.2 Unless otherwise agreed in writing, the Price is inclusive of all costs, duties, Taxes (other than VAT), packing, insurance, freight, delivery and other expenses and liabilities incurred by You in the supply of Goods and/or performance of Services.

4.3 Except to the extent expressly set out in Our Agreement, the Price is not subject to change.

4.4 You must submit a Tax Invoice to FFI on the last business day of each calendar month for the Goods and/or Services supplied in that month.

4.5 The Tax Invoice must set out particulars of all Goods and/or Services supplied by You and the amount payable by FFI under Our Agreement in respect of those Goods and/or Services, and how the amount of the Tax Invoice was calculated.

4.6 Subject to clause 16.3, FFI will pay all Tax Invoices submitted by You by the period specified in the Purchase Order after the date FFI receives the Tax Invoice (or such other period required by Legislation). Any such payment shall be on account only.

5 Your Personnel

5.1 You must employ or cause to be employed only personnel that are careful, skilled and experienced to the degree ordinarily expected of personnel engaged in the supply of goods and/or services similar to the Goods and/or Services acting in accordance with Good Industry Practice.

5.2 None of Your Personnel may commence work on Site unless she/he has attended, at Your expense, any induction courses required by FFI.

5.3 FFI may, at any time in its absolute discretion, direct You to withdraw any of Your Personnel from providing any part of the Goods and/or Services.

5.4 You must comply, and ensure Your Personnel comply, with directions of FFI's Representative.

5.5 Your Representative will represent and act for You at all times. You are bound by the actions of Your Representative. Matters within the knowledge of Your Representative are deemed to be within Your knowledge.

5.6 You must not subcontract any part or the whole of Your obligations under Our Agreement except with the prior written consent of FFI (acting reasonably). You must ensure that all subcontracts entered into in accordance with this clause contain obligations in relation to Intellectual Property, Modern Slavery, Human Rights, Sanctions, bribery and corruption and Confidential Information consistent with, and no less onerous than, those set out in Our Agreement.

5.7 You must, and must ensure Your Personnel, declare any conflict of interest prior to entering into any agreements with FFI, and in any event as soon as a conflict of interest comes to the attention of You.

6 New Creations, Ideas and Developments

6.1 You remain the owner of Your Background IP and FFI remains the owner of FFI's Background IP.

6.2 You grant to FFI a perpetual, worldwide, irrevocable, non-exclusive, transferable and royalty-free licence for FFI and FFI's Personnel to use, adapt, modify and copy Your Background IP to the extent necessary to:

- (a) complete the installation of, maintain, operate, make improvements to, repair and alter the Goods;
- (b) exercise FFI's rights with respect to the Project IP; and
- (c) otherwise enjoy the full benefit of the Goods and Services, and FFI's rights, title and interest in the Project IP.

6.3 FFI may grant a sub-licence of the licence granted to it under clause 6.2 to any person:

- (a) for any purpose referred to in clause 6.2; or
- (b) who has also been granted use of the Project IP by FFI.

6.4 You acknowledge and agree that all Project IP is vested in FFI and is FFI's property as and when created. To the extent it does not automatically vest, You assign all rights, title and interest in and to the Project IP to FFI as and when created.

6.5 FFI grants to You a non-exclusive, non-transferable, non-sublicensable (except to subcontractors in accordance with clause 5.6), revocable and royalty-free licence to use FFI's Background IP and Project IP, which We provide to You for the sole purpose of providing the Goods and/or Services in accordance with Our Agreement.

6.6 You must not disclose, reproduce or otherwise deal with the Project IP or FFI's Background IP, or allow any other person to do the same, for any purpose other than to provide the Goods and/or Services in accordance with Our Agreement.

6.7 You warrant that:

- (a) You own the Intellectual Property Rights in Your Background IP or You are otherwise entitled to provide it, and that the use of Your Background IP does not and will not infringe any rights of third parties (including any Intellectual Property Rights);
- (b) Your Background IP is unencumbered and free from security interests;
- (c) the provision of the Goods and/or Services does not and will not infringe the rights (including Intellectual Property Rights) of any third party;
- (d) the Project IP and its use does not and will not infringe any rights of third parties (including any Intellectual Property Rights);
- (e) use, publication, reproduction, communication and modification of any Goods or Services by FFI for any reason will not infringe or violate any Moral Rights of any person; and
- (f) You have the right to assign all Project IP to FFI in accordance with clause 6.4.

7 Access to Site and Our Commitment to Safety

7.1 FFI grants to You a non-exclusive and non-assignable licence to access the Site to perform Your obligations under Our Agreement.

7.2 You must obtain all applicable permits, licences, exemptions, consents and approvals required for You to supply the Goods and/or perform the Services and must comply with all:

- (a) applicable Legislation (including HSES Legislation);
- (b) FFI's Policies and Procedures; and
- (c) directions given by FFI's Representative.

7.3 Without limiting Your other obligations under Our Agreement, You must notify FFI's Representative as soon as practicable but in any event within 12 hours of any accident, injury, loss or damage which occurs at the Site.

8 Our Commitment to Timing

8.1 You must immediately give FFI's Representative written notice of all incidents, circumstances or events of any nature affecting or likely to affect Your ability to deliver the Goods and/or perform the Services by the Delivery Date.

8.2 FFI may grant an extension of time to the Delivery Date if the supply of the Goods and/or Services has been delayed by any act or omission of FFI or its Personnel, but excluding acts or omissions authorised or permitted under Our Agreement and which are done or omitted in accordance with Our Agreement.

8.3 FFI has the right, at any time and for any reason, to suspend Our Agreement or any part of Our Agreement immediately. When You receive a notice of suspension from FFI, You must suspend the performance of Your obligations until such time as FFI directs that Our Agreement is no longer suspended.

9 Dealing with Changes

9.1 FFI may by written notice direct a Variation and You must perform and are bound by any such Variation.

9.2 If FFI directs You to perform a Variation under clause 9.1, FFI's Representative will value the Variation on the basis of

- (a) rates and/or prices agreed by FFI and You; or
- (b) if FFI and You do not agree on the value of a Variation within 5 days of the direction, Your costs necessarily, actually, reasonably and properly incurred or saved as a result of the Variation (evidenced on an open book basis),

which will be added to or deducted from the Price.

10 Monitoring Quality Together

10.1 You must keep FFI's Representative fully informed of all aspects of the provision of the Goods and/or Services.

10.2 Subject only to providing reasonable notice, FFI may inspect, examine, review and witness tests on the Goods and/or Services at the Site, Your premises or at the premises of Your Personnel.

- 10.3 If, as a result of any review, inspection, examination, or witnessing of testing, FFI is not satisfied that the Goods and/or Services will comply in all respects with Our Agreement, FFI may terminate Our Agreement under clause 19.1(b) as a substantial default.
- 11 Fixing Defects and Mistakes**
- 11.1 If at any time prior to the end of the Warranty Period, FFI identifies Defective Goods and/or Services, it may at its election:
- reject the Defective Goods and/or Services;
 - direct You to make good the Defective Goods and/or Services; or
 - make good the Defective Goods and/or Services itself,
- and You must:
- refund to FFI any payments made by FFI in respect of any Defective Goods and/or Services that FFI rejects;
 - make good free of charge any Defective Goods and/or Services as per FFI's request; or
 - reimburse FFI for any expenses FFI incurs in making good any Defective Goods and/or Services itself or by engaging a third party to make good.
- 11.2 The remedies provided in this clause do not exclude any other remedies provided by law.
- 12 Successful Delivery**
- 12.1 Title in any Goods passes to FFI on the earlier of when FFI pays for the relevant Goods or when such Goods are delivered to the Site.
- 12.2 Risk in any Goods remains with You until delivery to the Site.
- 12.3 To the extent permitted by law, You enter onto the Site and supply the Goods and/or Services under Our Agreement at Your own risk.
- 13 Protecting People and Property**
- 13.1 You must, before commencing the supply of Goods and/or Services, effect and maintain insurances for:
- Employers' liability/Workers compensation insurance:** You must comply with all applicable statutory requirements in the relevant jurisdiction where You or Your Personnel are domiciled and/or performing the Services and/ or manufacturing Goods, including providing any compulsory statutory workers' compensation benefits, and where the supply of Services and/ or Goods occurs within Australia, provide a principal's indemnity extension for statutory and common law benefits including a waiver of subrogation in favour of FFI and its Related Bodies Corporate;
 - Public Liability insurance:** You must ensure Your legal liability to third parties (including counterparties) for death, personal injury and damage to property caused by an occurrence during the period of insurance, where such occurrence arises in connection with performing the Services for an amount of not less than AU \$2,500,000; or, where the supply of Services and/or Goods occurs within Australia, provide cover for general public and products liability to a limit of not less than AU \$20,000,000 in respect of any one occurrence arising out of the same or original cause and unlimited in the aggregate for public liability as to the number of claims but limited in the aggregate to AU \$20,000,000 for products liability and provide a principal's indemnity extension and a waiver of subrogation in favour of FFI and its Related Bodies Corporate;
 - Motor Vehicle insurance:** If Our Agreement requires You to use or provide use of motor vehicles, You must ensure the vehicle is correctly licensed and registered for compulsory third party insurance as required by applicable Legislation; and, where the Services and/or Goods occurs within Australia You must also take out relevant insurance for the replacement value of the motor vehicle and for third party liability for an amount of no less than AU \$20,000,000 and otherwise to comply with Legislation and Good Industry Practice;
 - Professional Indemnity insurance:** If the Services include professional services, You must take out professional indemnity insurance of not less than AU \$1,000,000 per occurrence and in the annual aggregate;
 - Equipment insurance:** If Our Agreement requires You to bring Equipment onto a Site within Australia, You must insure all items of Equipment for market value of the Equipment;
 - Transit insurance:** If Our Agreement provides that You are responsible for transportation of Goods to the Site (or another delivery point as nominated by FFI in writing), You must take out goods in transit insurance to cover loss or damage to such Goods for 100% of the replacement value; and
 - Other insurances:** You must effect and maintain any other insurances required by Legislation or regarded as Good Industry Practice in the jurisdiction in which the Goods and/ or Services are being provided.
- 13.2 Before commencing performance of the Services and/or supply of the Goods, You must give to FFI a valid certificate of insurance or currency evidencing Your insurance, and otherwise at any time upon request.
- 13.3 You must ensure any subcontractor engaged by You in relation to the Goods and/or Services effects and maintains the insurances nominated in this clause 13 and provides certificates of currency to You.
- 14 Dealing with Loss and Damage**
- 14.1 To the extent permitted by law, You indemnify FFI from and against all claims, liability, losses, damages, costs and expenses, due to:
- any loss of, damage to or destruction of any property, including the Goods but excluding other property of FFI; and
 - personal injury or death,
- to the extent contributed to by any breach of Our Agreement by You or negligent or unlawful acts or omissions of You or Your Personnel arising out of or in connection with Our Agreement.
- 14.2 You must indemnify FFI from and against all claims, liabilities, losses, damages, costs and expenses (including legal expenses) suffered or incurred by FFI arising out of or in connection with any actual or alleged infringement of any Intellectual Property Rights or Moral Rights of any person resulting from the performance of Our Agreement, Your Background IP or the Project IP.
- 14.3 Subject to clause 14.4 and to the maximum extent permitted by Legislation:
- Your maximum aggregate liability to FFI in connection with Our Agreement is limited to 100% of the Price; and
 - neither of Us will be liable to the other for any Excluded Loss.
- 14.4 The limitation and exclusion of liability in clause 14.3 does not apply in relation to Your liability:
- in respect of the injury or death of any person or the loss or destruction of any real or personal property;
 - for any act or omission of fraud, criminal act, dishonesty, wilful misconduct or misrepresentation of You and/or any of Your Personnel;
 - for any penalty imposed for breach of Legislation or licence in connection with the supply of the Goods and/or Services by You;
 - for breach of clauses 2.2, 2.4, 2.5, 2.7, 2.9, 2.10, 6 or 15;
 - for any loss arising from an occurrence which should be covered by a policy of insurance in the name of You required under Our Agreement (up to the limits of insurance required under Our Agreement) or which would have been so covered but for the application of this clause 14.4 or any act or omission of You; or
 - which, by law, You cannot contract out of.
- 15 Protecting Confidential Information**
- 15.1 You must, subject to the terms of Our Agreement, at all times:
- keep the Confidential Information secret and preserve its confidential nature;
 - not use Confidential Information for any purpose other than the purpose of supplying Goods and / or performing the Services; and
 - only copy or reproduce Confidential Information for the purpose of supplying Goods and / or performing the Services, or with the written consent of FFI.
- 15.2 You must not disclose any Confidential Information to any person except:
- with the prior written approval of FFI, which consent may be withheld in its discretion;
 - to Your Personnel, Your Related Body Corporates and their Personnel but only to the extent necessary for the supply of the Goods and / or performance of the Services and provided that such Personnel have agreed to keep the Confidential Information confidential on terms no less onerous than this clause; or
 - if You are required to do so by Legislation, a Government Authority or by a stock exchange.
- 15.3 You are, and remain, liable for any breaches of confidentiality by Your Personnel.
- 16 Dealing with Taxes**
- 16.1 Unless otherwise expressly stated otherwise, the Price payable under Our Agreement does not include VAT. If VAT is applicable to any supply made by You under or in connection with Our Agreement, and subject to any specific regulations regarding special taxpayers, You are responsible for calculating the applicable VAT amount and issuing a valid Tax Invoice. Thereafter, FFI is responsible for payment of the VAT to You.
- 16.2 You must pay all Taxes (other than VAT), and the Price will not be adjusted for any such Taxes, other than as set out in clause 16.1. You must provide documentary evidence of the payment of any Taxes for which You are liable.
- 16.3 Where FFI is required by Legislation to withhold or deduct from any payment due to You any amount with respect to or which relates to any Tax, such withholding or deduction is hereby authorised by You, and payment made to the appropriate Government Authority of the amount so withheld or deducted constitutes good and full payment by FFI to You of an amount equal to the amount of such payment made.

17 Communicating with Each Other

- 17.1 A notice (and any other document) must be in writing, legible, in English, marked for the attention of FFI's Representative or Your Representative (as applicable) and delivered in person, by post or by email.
- 17.2 A notice (and other documents) shall be deemed to be given and received:
- upon actual receipt when hand delivered;
 - if sent by email, at the time the email becomes capable of being retrieved by the recipient's email system; or
 - in the case of posting, three business days after posting if sent domestically within Australia and, in all other cases, on the fifth business day after the date of posting.

18 Resolving any Disagreements

- 18.1 If an issue or dispute arises in connection with Our Agreement, the Parties agree, prior to the initiation of any legal proceedings, to use their reasonable endeavours to reach a resolution of the dispute.
- 18.2 Where the supply of Goods and/ or Services occurs wholly within Australia, and the dispute has not been resolved within 30 days after the Parties first convene to resolve the dispute, either of Us may refer the dispute to litigation by commencing proceedings in any court of the jurisdiction set out in clause 20.3.
- 18.3 Where any part of the supply of Goods and/ or Services occurs outside Australia, and the dispute has not been resolved within 30 days after the Parties first convene to resolve the dispute, either of Us may refer the dispute to arbitration. The arbitration will be conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC Rules) current at the time of the reference to arbitration. The seat and the proper law of the arbitration will be Singapore. The language of the arbitration shall be English and all written and oral communications must be in English.
- 18.4 Despite the existence of a dispute, You must continue without delay to perform Your obligations under Our Agreement.
- 18.5 Nothing in this clause prevents either of Us from applying to a court for urgent injunctive relief.

19 Ending Our Agreement

- 19.1 Our Agreement may be terminated:
- at any time for the convenience of FFI by providing 7 days' written notice to You, in which case FFI shall, as its sole liability, pay You such of the Price as is payable as at the date of termination and the cost of any materials reasonably ordered as part of the Goods which You are obliged to pay for and cannot cancel, provided such Goods are delivered to and become the property of FFI;
 - upon a substantial breach of Our Agreement by either of Us which is not remediated within a reasonable time (and in any case within 14 days) of written notice by the non-breaching party of the substantial breach; or
 - immediately by written notice by either of Us in the event the other Party becomes insolvent or financially unable to proceed with Our Agreement.
- 19.2 Upon termination of Our Agreement, You must promptly return to FFI the Confidential Information and any materials, documents and other information provided by FFI in connection with Our Agreement and must ensure Your Personnel do the same.
- 19.3 If either of Us breaches (including repudiates) Our Agreement, nothing in this clause 19 shall prejudice the right of the other Party to recover damages or exercise any other right or remedy.

20 Other Matters

- 20.1 **Survival** – Clauses 2.4 to 2.10, 3.2, 6 (excluding 6.5), 11, 13.1, 15, 17 and 20 survive the expiry or earlier termination of Our Agreement.
- 20.2 **Waiver** – Waiver of any right arising from a breach of Our Agreement must be in writing and executed by the Party granting the waiver. Failure by FFI to exercise a right, remedy or power at any time will not be construed in any way to affect the enforceability of that right, remedy or power in any other instance, or the enforceability of Our Agreement as a whole.
- 20.3 **Governing law and jurisdiction** – We accept the laws of the State of Western Australia as the governing law of Our Agreement and submit to the exclusive jurisdiction of the Courts of the State of Western Australia.
- 20.4 **Counterparts** – Our Agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.
- 20.5 **Further assurances** - Each of Us must promptly sign all documents and do all things that either of Us from time to time reasonably request to effect, perfect or complete Our Agreement and all transactions incidental to it.
- 20.6 **Entire Agreement** – Our Agreement as amended or varied from time to time represents the entire agreement between Us and supersedes all prior arrangements whether written or oral in relation to the Services. Except where Legislation otherwise provides, where Our Agreement has been translated into any other language, the English version shall prevail.

20.7 Relationship between Us –

- FFI and You are independent contracting parties and nothing in Our Agreement will make either of Us an agent or legal representative of the other for any purpose whatsoever.
- FFI is not responsible to You or any of Your Personnel for any payments in respect of any employment related expenses including wages, annual leave, sick leave, long service leave, superannuation, workers' compensation, accidents, sickness, or lift insurance.

20.8 Interpretation -

In Our Agreement:

- all information and documentation must be in English;
- if You comprise two or more persons, the liability of each of those persons under Our Agreement is joint and several;
- a reference to:
 - the singular includes the plural and vice versa;
 - a person includes a body corporate and vice versa;
 - time is the time in Perth, Australia, unless otherwise stated; and
 - "including" and similar expressions are not words of limitation.

20.9 Definitions -

In Our Agreement unless the contrary intention appears:

Agreement means the agreement between FFI and You comprised of the Purchase Order, these Standard Terms and Conditions and all other documents annexed to the Purchase Order, this document or specifically incorporated by reference;

Anti-Corruption Laws means Legislation relating to anti-bribery or anti-corruption, including but not limited to the US *Foreign Corrupt Practices Act 1977*, the UK *Bribery Act 2010* and the Australian *Criminal Code Act 1995*;

Confidential Information means all information (whether of a scientific, engineering, industrial, mining, technical, business, financial nature or otherwise) which relates to Our Agreement, which You ought to know is confidential or which is by its nature confidential, and includes FFI's Background IP and Project IP but excludes information that is in, or enters into, the public domain through no fault of You, Your Related Bodies Corporates and their Personnel;

Defective Goods and/or Services means:

- any aspect of the Goods and/or Services which are not in accordance with Our Agreement; or
- defect, deficiency, damage, omission, fault, non-conformity or failure in the Goods and/or Services;

Delivery Date means (where relevant) the date the Goods must be delivered and the Services must be completed by You as specified in Our Agreement, or, if no such date is specified, the date following a reasonable period of time from the date of the Purchase Order, as may be amended in accordance with Our Agreement;

Equipment means the equipment, tools, appliances and other property supplied by You for the purpose of supplying the Goods and/or performing the Services;

Excluded Loss means loss of revenue and profit (other than revenue or profit derived directly from payments for Goods and/or Services under Our Agreement), loss or denial of opportunity, loss of access to markets, loss of goodwill, loss of business reputation, increased overhead costs, and all other loss which is indirect, remote or unforeseeable loss;

Export Control Laws means all applicable provisions of export and re-export control Legislation, including but not limited to export control Legislation of Australia, the United States of America, the United Kingdom and the European Union, and any other applicable national export control and embargoes Legislation;

FFI means the party named as such on the Purchase Order;

FFI's Background IP means FFI's Intellectual Property Rights which:

- are in existence at the date of the Purchase Order; or
- come into existence after the date of the Purchase Order otherwise than in connection with Our Agreement;

FFI's Policies and Procedures means all of FFI's policies and procedures relating to the provision of the Goods and/or Services, as may be updated from time to time, including those set out at FFI's extranet (available via <https://fmgl.sharepoint.com/sites/extranet>) or posted on notices boards on the Site;

FFI's Representative means the person set out in the Purchase Order or as otherwise notified to You in writing from time to time;

Good Industry Practice means, in respect of You, performance as would ordinarily be expected of a contractor that exercises the degree of skill, quality, care, diligence and prudence that would reasonably be expected of a competent, expert and experienced contractor in undertaking work, tasks, services, functions, responsibilities and obligations the same or similar to the Services;

Goods means all goods and things to be supplied by You in accordance with Our Agreement, including all goods set out in or reasonably inferred from the Purchase Order;

Government Authority means a national, state, regional, local, territorial or municipal government, ministry, governmental department or legislative, judicial or administrative body having jurisdiction over Us, the Goods and/or Services or the Site;

HSES Legislation means all Legislation relating to health and safety and includes all relevant health and safety regulations, codes of practice of safety standards made pursuant to that Legislation or any other legislation dealing with workplace health and safety that may apply from time to time;

Human Rights means all internationally recognised human rights laws and standards, including, those rights and standards expressed in:

- (a) the International Bill of Human Rights;
- (b) the principles concerning the rights set out in the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work;
- (c) the United Nations' Guiding Principles on Business and Human Rights (**UNGPs**); and
- (d) the Voluntary Principles for Security and Human Rights (**VPI**);

Intellectual Property Rights means all copyright and analogous rights, all rights in relation to inventions (including patent and related rights), discoveries, plant varieties, registered and unregistered trade marks (including service marks), designs, trade secrets, know-how, circuit layouts and all other rights throughout the world resulting from intellectual activity including in the industrial, scientific or artistic fields;

Legislation means:

- (a) all national (or state) legislation, statutes, ordinances, regulations, by-laws or any other laws of any legally constituted public authority; and
- (b) all licences, qualifications, registrations and other statutory requirements necessary for supply of the Goods and/or performance of Services under Our Agreement;

Modern Slavery means:

- (a) any exploitative practices and crimes including:
 - (i) human trafficking or trafficking in persons as defined in Article 3 of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, done at New York on 15 November 2000 ([2005] ATS 27);
 - (ii) child labour or the worst forms of child labour as defined in Article 3 of the *ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, done at Geneva on 17 June 1999 ([2007] ATS 38); and
 - (iii) slavery and slavery like practices, servitude, forced labour, debt bondage, forced marriage, sale of or sexual exploitation of children, deceptive recruiting for labour or services, removal of organs and organ trafficking; or
- (b) any activity, practice or conduct that would constitute an offence or is otherwise defined as modern slavery in any applicable anti-slavery and human trafficking Legislation;

Moral Rights has the meaning given in the Copyright Act 1968 (**Cth**) or the equivalent meaning in Legislation of any relevant jurisdiction;

Party means You or FFI and **Our, Parties, Us** or **We** means both of You and FFI;

Personnel means any of a Party's or its Related Bodies Corporates' employees, contractors, suppliers, agents, consultants or representatives;

Price means the total amount payable for the Goods and/or Services, as set out in the Purchase Order;

Project IP means all Intellectual Property Rights (present or future) created, discovered or coming into existence as a result of, for the purpose of, or in connection with, the provision of any Goods or Services or Our Agreement;

Purchase Order means the document entitled 'Purchase Order' describing the Goods and/or Services to be supplied, which may be attached to these Standard Terms and Conditions;

Related Body Corporate means, in relation to each of the Parties, a holding company of the Party; a subsidiary of the Party; and a subsidiary of a holding company of the Party;

Sanction means any economic or financial sanction, trade embargo or similar measures imposed, enacted, administered or enforced from time to time by a Sanctions Authority;

Sanctioned Country means a country or territory which is subject to a Sanction;

Sanctioned Person means any person or entity which is:

- (a) listed on, or is owned or controlled directly or indirectly (as such terms are used in the Sanction or in any guidance in relation to the Sanction) by a person or entity listed on, a Sanctions List;
- (b) organised under the laws of, or a citizen or resident of, any Sanctioned Country; or
- (c) otherwise a target of a Sanction;

Sanctions Authority means each of the following:

- (a) the United States of America;
- (b) the United Nations;
- (c) the European Union and any present or future member state thereof;
- (d) the United Kingdom;
- (e) France;
- (f) Australia; and
- (g) the respective governmental and official institutions or agencies of any of the foregoing including the Office of Foreign Assets Control by the United States' Department of the Treasury, the United States' Department of State, the Security Council of the United Nations, His Majesty's Treasury by the Government of the United Kingdom, the Ministry for the Economy and Finance (Directorate-General of the Treasury) of France and the Australian Sanctions Office by Australia's Department of Foreign Affairs and Trade;

Sanctions List means any of the lists of specifically designated nationals or designated persons or entities (or equivalent) held, issued or maintained by any Sanctions Authority, each as amended, supplemented or substituted from time to time;

Services means all services to be supplied by You in accordance with Our Agreement, including all services set out in or reasonably inferred from the Purchase Order;

Site means the location specified in the Purchase Order;

Tax means any tax, levy, impost, fee, charge, excise, duties, customs, rate, compulsory loan, deduction, withholding or surcharge whether imposed under a law of Australia or the law of another country;

Tax Invoice means an invoice that complies with any Legislation applicable to Tax;

Variation means any addition, reduction, change or omission to the Goods and/or Services;

VAT means any value added, good and services or similar tax and, in Australia, means **GST** as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Warranty Period means the period commencing on the first date of delivery of Goods or performance of Services under Our Agreement, ending:

- (a) 12 months; or
- (b) such other period stated in the Purchase Order,

after the date on which all of the Goods have been delivered and the Services have been performed;

You, Your, Yours, Yourself means the person, firm or company named in the Purchase Order as the supplier of Goods and/or Services;

Your Background IP means Your or Your Personnel's Intellectual Property Rights, which:

- (a) are in existence at the date of the Purchase Order; or
- (b) come into existence after the date of the Purchase Order otherwise than in connection with Our Agreement,

but does not include the Project IP; and

Your Representative means the person set out in the Purchase Order or as otherwise notified to FFI in writing from time to time.