

1 General

(a) All Products and Services sold and supplied to the Customer by the Supplier are sold and/or supplied on these terms and conditions (**Terms**).

(b) Upon acceptance by the Supplier of an order under clause 2(a), a contract comes into existence between the Supplier and the Customer incorporating the following documents (together the **Contract**), listed in order of priority:

- (i) any quote, invoice or other document of the Supplier whether attaching these Terms or not;
- (ii) these Terms;
- (iii) any document attached or annexed to these Terms by the Supplier; and
- (iv) the Purchase Order placed by the Customer excluding any attached or associated terms and conditions.

(c) The Contract prevails over any prior agreement, arrangement or understanding (either written or oral) and over any terms and conditions of the Customer, whether incorporated into the Customer's response to a quote or other instructions given to the Supplier in relation to the supply and sale of the Products and Services to the Customer by the Supplier.

(d) If the Customer has made an application to the Supplier for the provision of credit in relation to the sale of Products or Services contemplated by the Contract, then the Customer acknowledges that the Supplier's obligations under the Contract remain subject at all times to the Supplier being prepared to provide such credit to the Customer on terms satisfactory to the Supplier.

2 Ordering and Delivery

(a) Where the Customer has ordered the Services and the Products by giving the Supplier the Purchase Order and the Supplier has accepted the Purchase Order, the Customer is taken to have accepted and is immediately bound, jointly and severally, by these Terms as part of the Contract.

(b) Following acceptance of a Purchase Order, and subject to payment of the Purchase Price:

- (i) the Supplier sells to the Customer the Products contemplated by that Purchase Order; and
- (ii) the Customer buys the Products contemplated by that Purchase Order for the Purchase Price.

(c) If a date or dates for delivery of the Products or completion of the Services is specified in the Contract, the Supplier will endeavour to deliver or complete, as the case may be, by those dates. However, the Customer acknowledges and agrees that provision of the Services and delivery of the Products (or any portion of them) may not occur or may be delayed where the Supplier is, or is likely to be, delayed or disrupted in the supply of those Products or Services due to any fact, event, matter or circumstance beyond its reasonable control (in which case the Supplier is entitled to a reasonable extension of time to supply the Products or Services).

(d) The Customer must:

- (i) provide the Supplier with access to the Customer's premises, or procure the relevant third party to provide the Supplier with access to the third party's premises, to enable the Supplier to provide the Services; and
- (ii) provide the Supplier with such information and assistance necessary to enable the Supplier to provide the Services.

(e) The Customer acknowledges and agrees that:

- (i) if the Customer does not comply with clause 2(d), then the Supplier is entitled to an extension of time for provision of the Services in accordance with paragraph (c) above;

(ii) failure to deliver part or all of the Products or to perform part or all of the Services the subject of the Contract by any agreed time will not entitle the Customer to terminate the Contract or to claim compensation of any nature; and

(iii) the Customer is not entitled to reject Products on the basis of late delivery or reject Services on the basis of late performance.

(f) The Supplier may request a third party to deliver the Products to the address nominated by the Customer at the time the relevant order is made under clause 2(a).

(g) Delivery is deemed to have occurred:

(i) in relation to Products, when loading of the Products commences by the Customer (or its carrier) at the Supplier's premises or when the Products are unloaded at the delivery place by the Supplier (or its carrier) (as the case may be); and

(ii) in relation to Services, when the Supplier advises the Customer that it has completed the performance of the Services,

(Delivery).

(h) The Customer acknowledges and agrees that it bears the risk relating to the Products from the time of Delivery.

(i) The Customer acknowledges and agrees that:

(i) the Supplier is not obliged to accept the return of Products purchased by the Customer (including software licences and other subscriptions (e.g. VRSNow)) but no longer required for any reason;

(ii) if the Supplier elects (in its absolute discretion) to accept a Product return:

(A) the Product must be new, unused and in its original packaging; and

(B) the Supplier may charge the Customer a restocking fee equivalent to 20% of the Product's invoiced price, which will be treated as a reduction in the return credit for the relevant Product(s); and

(C) the original cost of freight from the Supplier to the Customer will not be refunded; and

(iii) the Supplier will not consider requests for Product returns that are lodged more than 6 months after the purchase date.

3 Fees and Purchase Price

(a) The Fees in respect of the Services and the Purchase Price in respect of Products excludes freight, consumables, taxes and duties (including import and customs duties) unless expressly stated in the Contract.

(b) Any costs for any third-party goods or services incurred by the Supplier in providing the Services or Products (including freight, storage and handling) must be reimbursed by the Customer with a margin (profit and overhead) of 30% on costs to the Supplier unless otherwise expressly stated in the Contract.

(c) Any applicable deposits or other advance payments defined in the Contract must be paid and received by the Supplier in full, cleared and available funds as a condition precedent to any liability or obligation of the Supplier arising under the Contract.

(d) The Customer is liable to pay a 2% transaction fee on credit card purchases over \$3,000 (excl GST).

(e) To the extent that the Customer has a Supplier approved credit facility with sufficient, immediately available credit to cover the full amount of the Fees or Purchase Price (or both, as the case may be):

(i) the Supplier may issue an invoice or claim for payment on or by the last day of each month on account of Products delivered or Services carried out, or undertaken to be delivered or carried out, up to and including the date of that invoice;

(ii) if the Customer disputes the whole or any part of the invoice issued or claim, the Customer must, within 14 days of the invoice date or claim, give the Supplier notice in writing with reasons why it disputes the amount claimed and provide adequate reasons; and

(iii) within 30 days after the date of an invoice or claim under paragraph (i) of this clause, except to the extent validly disputed under paragraph 3(e)(ii), the Customer must pay, and the Supplier must receive, in full, cleared funds and without any deduction or set off, the amount invoiced or claimed.

(f) Where payment is not agreed to be on credit (including where there is insufficient available credit), the Customer must pay the Purchase Price or Fees (or both, as the case may be) upfront and in full, in cleared and available funds before any collection or delivery of Products or the performance of any Services will take place.

(g) Time is of the essence in relation to payment for Products and Services. If the Customer fails to pay the Supplier any amount when due, the Supplier is, without limitation, entitled to payment of interest at 5% per annum above the Reserve Bank of Australia target cash rate in simple interest calculated daily from the time the amount falls due to the extent and for the duration that it remains unpaid.

(h) The Supplier may deduct, set off, back charge or otherwise account for, amounts paid by the Customer against any other amounts owed by the Customer to the Supplier or claimed to be owed whether arising under or in connection with this Contract or otherwise.

(i) If the Supplier is required to commence any form of debt recovery proceedings against the Customer to obtain payment of amounts owing under the Contract, the Customer acknowledges and agrees that in addition to the amounts owing under the Contract, the Customer will also be liable to pay the Supplier's related debt recovery, enforcement or related costs.

(j) If, prior to Delivery or completion of the Contract, the parties agree in writing for the Supplier to:

(i) perform any further services under the Contract in addition to the Services; or

(ii) agree to make other changes to the Products and Services to be delivered under the Contract (**Variation**),

then:

(iii) the adjusted Purchase Price or Fee as a result of any Variation will be valued at the appropriate rates and prices included in the Contract to the extent reasonably applicable, or to the extent that rates and prices in the Contract do not reasonably apply then by agreement between the parties;

(iv) such Variation must clearly state the impact on any agreed date for delivery and the Purchase Price or Fee payable to the Supplier; and

(v) the Customer must issue the Supplier with a new Purchase Order reflecting the scope and cost of the variation.

4 Retention of title

(a) The Products delivered by the Supplier to the Customer under the Contract remain the property of the Supplier until the Customer has paid all money due to the Supplier by the Customer in full.

(b) Until property in the Products passes to the Customer, the Customer:

(i) is bailee of the Products for the Supplier;

(ii) must not deal with the Products contrary to the terms of the Contract; and

(iii) irrevocably authorises the Supplier to enter, at any time, the premises where the Products are stored or are reasonably thought by the Supplier are likely to be stored, for the purposes of examination of the Products, and warrants that it has the capacity to grant that right of entry.

(c) Upon taking possession of the Products, the Customer must store the Products:

(i) separately from other goods of the Customer, so that the Products are not mixed with those other goods; and

(ii) in such a way that the Products are recognisable as the property of the Supplier.

(d) If the Customer fails to pay the Fees in relation to any Services or the Purchase Price in relation to any Product in accordance with clause 3 then, without limiting any other remedies available to the Supplier:

(i) the Supplier may defer provision of all Services and Products until the outstanding Fees or Purchase Price (or both, as the case may be) is paid in full;

(ii) the Customer's right to possession of the Products ends immediately;

(iii) the Supplier may recover possession of the Products; and

(iv) the Customer irrevocably authorises the Supplier to enter, at any time, the premises where the Products are stored or are reasonably thought by the Supplier to be stored, for the purposes of recovery of the Products, and warrants that it has the capacity to grant that right of entry. For the purposes of enabling the Supplier to recover the Products, the Customer irrevocably appoints the Supplier as the Customer's agent to enter any site or premises in which the Products may be located.

(e) The Customer is liable for, and indemnifies the Supplier from and against, all loss or damage (including legal costs on a full indemnity basis) incurred or suffered by the Supplier in connection with the Supplier lawfully exercising or attempting to exercise its rights under this clause 4, except to the extent caused by the negligent act or omission of the Supplier.

5 Personal Property Securities Act

(a) Prior to title passing, the Supplier may register a security interest under the PPSA in relation to the Products and any proceeds arising in respect of any dealing in the Products.

(b) To the extent permitted by law, each party waives its rights or entitlements to any verification statements or other notices or communications that may be necessary, required or desirable under the PPSA.

(c) The Customer undertakes to do anything reasonably required by the Supplier to enable the Supplier to register its security interest under the PPSA, and to maintain that registration.

(d) If any provisions of these Terms are inconsistent with the PPSA, the PPSA will prevail to the extent of that inconsistency.

6 Use of products

The Customer must only use the Products in accordance with the applicable Specification and any reasonable written instructions of the Supplier from time to time.

7 Warranties

(a) The parties acknowledge and agree that the manufacturer of the Products may offer a specific warranty in relation to the Products subject to conditions determined by the manufacturer. Where such a manufacturer's warranty applies:

(i) to the extent permitted by law, and unless otherwise agreed in writing, the Supplier's sole responsibility with respect to the warranties relating to the Products is to pass on to the Customer the benefit of the manufacturer's specific warranty;

(ii) copies of the manufacturer's warranty statements are available from the Supplier on request;

(iii) the benefits and obligations of the manufacturer's warranty applies in all respects and is, subject to clause 10, the Customer's sole and exclusive remedy for those Products.

(b) The Customer represents and warrants, and it is a condition of the Contract, that:

- (i) all information provided by the Customer or on the Customer's behalf to the Supplier is accurate and is not, whether by omission of information or otherwise, misleading;
- (ii) the Customer has not withheld from the Supplier any document, information or other fact material to the decision of the Supplier to enter the Contract;
- (iii) the Customer did not rely upon any representation made to the Customer by the Supplier or any Related Body Corporate of the Supplier (if any) prior to entry into the Contract, except for representations relating to the Products or Services that were made in writing by the Supplier and directly provided to the Customer in contemplation of the Contract;
- (iv) an Insolvency Event has not occurred in relation to it; and
- (v) any premises at which the Services are to be provided will be safe and secure for the Supplier's personnel.

8 Confidential information

- (a) The Supplier respects the privacy of personal information as defined by the *Privacy Act 1988* (Cth) (**Personal Information**).
- (b) The Customer acknowledges, accepts and agrees:
 - (i) to the Supplier's privacy policy available from <https://www.sitechsolutions.com.au/privacy-policy/> ;
 - (ii) that the Supplier may obtain and use Personal Information of the Customer and disclose it to its Business Partners; and
 - (iii) that without using such information, the Supplier may not be able to properly provide the Products or the Services.
- (c) Subject to subclause (d) neither party may disclose, or allow any person to disclose, confidential information to third parties including:
 - (i) the subject matter, correspondence in respect of, and contents of this agreement (but not its actual existence);
 - (ii) the subject matter and the existence of any dispute or difference; and
 - (iii) the Fees, Purchase Price and any discounts, rebates or cost saving measures.
- (d) The obligations to maintain confidentiality under this clause 8 apply except for a disclosure:
 - (i) permitted with the prior written consent of the other party; or
 - (ii) required by law, any stock exchange or court order.

9 Consequential loss

The Supplier will not be liable to the Customer for any Consequential Loss however caused (including by negligence), suffered or incurred by the Customer in connection with this Contract. (a) Notwithstanding anything else in these Terms, unless the Products are goods of a kind ordinarily acquired for personal, household or domestic use or consumption, any liability of the Supplier to the Customer arising under statute which may not be excluded, restricted or modified by agreement is limited to an amount equal to:

- (i) in the case of Products, the cost of:
 - (A) the replacement of the Products or the supply of equivalent goods;
 - (B) the repair of the Products; and
- (ii) in the case of Services:
 - (A) supplying the Services again; and

(B) paying the cost of having the Services supplied again.

(b) Nothing in these Terms is intended to exclude, restrict or modify rights which the Customer may have under the *Competition and Consumer Act 2010* (Cth) or otherwise which may not be excluded, restricted or modified by agreement.

10 Indemnity

(a) The Customer indemnifies the Supplier against any loss or damage (including legal costs) suffered or incurred by the Supplier however caused in respect of:

- (i) death or personal injury to any person;
- (ii) damage to, or destruction or loss of, any property; or
- (iii) any other claims arising in connection with the Products or Services,

arising in connection with any wrongful act or omission of the Customer or its officers or employees, including:

- (iv) breach of contract;
- (v) tort, including negligence or breach of statutory duty; or
- (v) breach of equitable duty.

(b) any liability of the Customer to indemnify the Supplier under this clause 10 will be reduced proportionally to the extent that the wrongful act or omission was caused or contributed to by the Supplier or its officers or employees.

(c) The Supplier need not incur any cost or make any payment before enforcing any right of indemnity under this clause 10. These indemnities are a continuing obligation and remain separate and independent from the other obligations of the parties and survives the expiry or termination of the Contract for any reason and continues in full force and effect.

11 Intellectual property rights

(a) The Customer acknowledges and agrees that nothing in the Contract grants the Customer any interest in or title to the Intellectual Property Rights of the Supplier (including any Intellectual Property Rights coming into existence after the date of this Contract or created predominantly for the purpose of it).

(b) Subject to Non-Excludable Rights, the Customer acknowledges and agrees that the Supplier does not give any express or implied warranties in relation to the Products or the Services including any warranties in relation to:

- (i) use of the Products or Services;
- (ii) exercise of any rights granted to the Customer under this Contract; or
- (iii) not infringing any third party's Intellectual Property Rights.

(c) The Customer:

- (i) must not alter, copy, decompile, disassemble or otherwise reverse engineer the Products (and/or any associated software) or attempt to do so, and must take reasonable precautions to prevent unauthorised or improper use or disclosure of the products (and/or any associated software);
- (ii) must immediately notify the Supplier if the Customer suspects that the Products (and/or any associated software) infringe or may infringe any third party's Intellectual Property Rights and take any action reasonably required by the Supplier in connection with that infringement; and
- (iii) acknowledges and agrees that if the Supplier suspects that the Products (and/or any associated software) infringes or may infringe any third party's Intellectual Property Rights then the Supplier may (at its cost) modify or replace the Products with alternative products or require the Customer to cease using the Products (or both, as the case may be).

(d) If the Products include any software:

- (i) the software is provided and the Customer's use of the software is subject to the terms of the manufacturer's end user licence agreement (the **EULA**) including any warranties contained therein. The Customer must comply with the terms of the EULA;
- (ii) unless specified in the Contract, the Customer is responsible for installation of the software;
- (iii) the Customer acknowledges and agrees that the Supplier is not obliged to provide any upgrades or updates to the software; and
- (iv) to the maximum extent permitted by law, the Supplier disclaims all other warranties, express or implied, with respect of the software including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. The Supplier does not warrant that the functions contained in the software will meet Customer's requirements, that the operation of the software will be uninterrupted or error free, or that defects in the software will be corrected.

(e) The Customer must not remove a supplier mark from a Product or represent that the Products are associated with any registered or unregistered trademark other than a supplier mark.

12 Term and termination

12.1 Term

This Contract commences on the Commencement Date and continues until Delivery of the Products and Services to the Customer has taken place, unless terminated earlier in accordance with this clause 12.

12.2 Termination for breach

(a) If:

- (i) the Customer commits a breach of the Contract which is not remedied to the reasonable satisfaction of the Supplier within fourteen (14) days after written notice from the Supplier; or
- (ii) an Insolvency Event occurs in relation to the Customer;

then the Supplier may terminate this Contract by written notice to the Customer, in which case the Contract will terminate on the date specified in that written notice or, if no date is specified, immediately.

(b) In the event that the Supplier terminates the Contract under this clause:

- (i) all amounts owing to the Supplier already invoiced to the Customer will immediately become due and payable;
- (ii) the Supplier may invoice any Fees or Purchase Price (or both, as the case may be) not already invoiced, and those amounts will become immediately due and payable; and
- (iii) the Supplier will immediately be entitled to retake possession of all Products in the possession or under the control of the Customer not paid for in full and invoice to the Customer any direct costs (including freight or technician labour or travel) of doing so.

12.3 Disputes

(a) If either party wishes to raise a dispute or difference in connection with the Contract, it must promptly give the other notice in writing (**Dispute Notice**) and within 14 days, the other party must provide its written response to the Dispute Notice stating its position and thereafter:

- (i) within 14 days of that response, the respective involved managers must meet in person at least once to try to resolve the dispute in good faith in a first meeting, and
- (ii) failing a resolution within 14 days of the first meeting, within a further 14 days from that meeting, the managing director of the Customer and a General Manager of the Supplier must meet in person to try to resolve the dispute in good faith in a second meeting.

12.4 After termination or expiry

- (a) On termination or expiry of this Contract, the accrued rights or remedies of a party are not affected.
- (b) Termination of the Contract will not affect clauses 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 16, 17 and any other clause of these Terms which is expressly or by implication intended to come into force or continue after termination.

13 Force majeure

- (a) A party will not be:

- (i) in breach of the Contract as a result of; or
 - (ii) liable for,

any failure or delay in the performance of any of its obligations under the Contract (other than the Customer's obligation to pay the Fees or Purchase Price, or both as the case may be) to the extent that such failure or delay is caused by, and for so long as the party is unable to fulfil its obligations because of, the occurrence of a Force Majeure Event.

- (b) The party affected shall use its best endeavours to resume fulfilling its obligations under this Contract as promptly as possible, but nothing in this clause shall require a party to settle any strike, lock-out, or stoppage of work on terms which, in its opinion, are not satisfactory.

- (c) Either party may terminate the Contract if a Force Majeure Event continues for more than 60 days, and where termination occurs under this subclause, the Supplier will be entitled to payment for the items listed in clause 12.2(b).

14 Taxes

- (a) The Customer must pay all stamp duty, taxes, duties, government charges and other taxes of a similar nature (including fines, penalties and interest) imposed, levied, assessed or payable in Australia or overseas in connection with the Contract.
- (b) Unless otherwise stated expressly, all prices are exclusive of GST and the Customer must on demand pay to the Supplier all GST payable in respect of the supply of the Products and Services to the Customer.

15 Guarantee

15.1 Liability of the Guarantor

In consideration of the Supplier entering the Contract with the Customer at the request of the Guarantor, the Guarantor:

- (a) acknowledges and agrees that he or she is jointly and severally liable with the Customer to perform the Customer's obligations under the Contract;
- (b) acknowledges and agrees that he or she is jointly and severally liable with the Customer to pay all amounts owing by the Customer to the Supplier under the Contract; and
- (c) is jointly and severally liable with the Customer for and indemnifies the Supplier from and against, all loss or damage (including legal costs) however caused suffered or incurred by the Supplier in connection with:
 - (i) any failure by the Customer to pay the Supplier any amounts which are owing by the Customer to the Supplier under the Contract;
 - (ii) any failure by the Customer to perform any of its obligations under the Contract; or
 - (iii) the Supplier being unable to recover any amounts from the Customer which are owing by the Customer to the Supplier under the Contract.

15.2 Extension of liability

The Guarantor will still be liable under the Contract even if:

- (a) the Supplier gives the Customer extra time to pay any amount which is owing by the Customer to the Supplier under the Contract;
- (b) the Supplier notifies the Customer that it does not have to pay any amount which is owing by the Customer to the Supplier under the Contract;
- (c) the Supplier delays in taking action to enforce the Contract;
- (d) the Contract is changed;
- (e) the Supplier increases the amount that is owing by the Customer under the Contract;
- (f) a person who was intended to sign the Contract does not do so; or
- (g) anything else happens which would otherwise have the effect of releasing the Guarantor from this clause 16.

15.3 Priority of claims

Any claim which the Supplier may have against the Customer will take priority over any competing right of the Guarantor.

15.4 Lack of guarantor

If there is no party specified in the Contract as guarantor or the Guarantors, then:

- (a) the Contract is between the Customer and the Supplier only;
- (b) clauses 15.1 to 15.3 do not form part of these Terms and are of no effect;
- (c) Background 1 does not apply to the Contract and is of no effect;
- (d) the obligations of the Customer and the Guarantor under the Contract are to be read as obligations of the Customer only; and
- (e) the obligations of the Guarantor only under the Contract are to be read as obligations of the Customer.

16 General

- (a) The laws of New South Wales, Australia govern the Contract and each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia and courts competent to hear appeals from those courts.
- (b) The parties must not assign, in whole or in part, or novate the other party's rights and obligations under the Contract without the prior written consent of the other party (which will not be unreasonably withheld).
- (d) Time is not of the essence in the performance of obligations under the Contract except in relation to performance of payment obligations.
- (e) Unless expressly stated otherwise, the Contract does not create a relationship of employment, trust, agency or partnership between the parties.
- (f) Each provision of the Contract will be read and construed as a separate and severable provision or part and if any provision is void or otherwise unenforceable for any reason then that provision will be severed and the remainder will be read and construed as if the severable provision had never existed.
- (g) The Contract represents the parties' entire agreement, and supersedes all prior representations, communications, agreements, statements and understandings (oral or in writing) relating to its subject matter.
- (h) The Supplier may subcontract the performance of all or any part of the Supplier's obligations under the Contract by giving written notice to the Customer.

(i) A right under the Contract may only be waived in writing signed by the party granting the waiver and is effective only to the extent specifically set out in the waiver.

(j) If the Customer is more than one person, each person shall be jointly and severally liable to the Supplier.

17 Definitions and interpretation

17.1 Interpretation

In the Contract:

(a) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including' or 'for example' (or similar phrases) do not limit what else might be included;

(b) no rule of construction applies in the interpretation of the Contract to the disadvantage of the party preparing the document on the basis that it put forward this document or any part of it; and

(c) a reference to a party is a reference to the Supplier or the Customer, and a reference to the parties is a reference to both the Supplier and the Customer.

17.2 Definitions

In these Terms, unless otherwise defined:

Business Partners includes the parties' respective consultants, agents, financiers, lawyers and in the case of the Supplier such agents include WesTrac Pty Ltd, Trimble Europe BV, their subsidiaries, affiliates and related parties.

Commencement Date means the date of the Purchase Order.

Consequential Loss means consequential loss, indirect loss, loss of revenues, loss of reputation, loss of profits, loss of actual or anticipated savings, loss of bargain, lost opportunities (including opportunities to enter into arrangements with third parties) and loss or damage in connection with claims against the Customer or Supplier by third parties.

Customer means the customer shown on the Purchase Order.

Fees in respect of Services means the fees for those Services specified in this Contract and any third-party costs or expenses contemplated by clause 3(b).

Force Majeure Event means any occurrence or omission outside a party's control and includes:

(a) a physical natural disaster including fire, flood, lightning or earthquake;

(b) war or other state of armed hostilities (whether war is declared or not), insurrection, riot, civil commotion, act of public enemies, national emergency (whether in fact or in law) or declaration of martial law;

(c) epidemic or quarantine restriction;

(d) ionising radiation or contamination by radioactivity from any nuclear waste or from combustion of nuclear fuel;

(e) confiscation, nationalisation, requisition, expropriation, prohibition, embargo, restraint or damage to property by or under the order of any government agency;

(f) law taking effect after the date of this Contract;

(g) strike, lock-out, stoppage, labour dispute or shortage including industrial disputes that are specific to a party or the party's subcontractors; and

(h) failure of a third party to deliver the Products to the Customer.

Guarantor means the guarantor shown on the Purchase Order, if any.

Insolvency Event in the context of a person means:

- (a) a liquidator, receiver, receiver and manager, administrator, official manager or other controller (as defined in the Corporations Act), trustee or controlling trustee or similar official is appointed over any of the property or undertaking of the person;
- (b) the person or the person's property or undertaking becomes subject to a personal insolvency arrangement under part X of the *Bankruptcy Act 1966* (Cth) or a debt agreement under part IX of the *Bankruptcy Act 1966* (Cth);
- (c) the person is or becomes unable to pay its debts when they are due or is or becomes unable to pay its debts within the meaning of the Corporations Act or is presumed to be insolvent under the Corporations Act;
- (d) the person ceases to carry on business; or
- (e) an application or order is made for the liquidation of the person or a resolution is passed or any steps are taken to liquidate or pass a resolution for the liquidation of the person, otherwise than for the purpose of an amalgamation or reconstruction.

Intellectual Property Rights means copyright, trademarks, patents, designs and any other intellectual property right or intangible proprietary information.

Non-excludable Rights means any rights under the Australian Consumer Law, or other Australian laws, which may not be excluded by contract.

PPSA means:

- (a) the *Personal Property Securities Act 2009* (Cth) and any regulations made under that Act; and
- (b) any amendment made to any other legislation as a consequence of a law referred to in paragraph (a), including, without limitation, amendments to the *Corporations Act 2001* (Cth).

Products means the products described in the Purchase Order.

Purchase Order means the purchase order in which these terms and conditions are referred to or to which these terms and conditions are attached.

Purchase Price in respect of a Product means the purchase price and cost of delivery for that Product specified in this Contract.

Related Body Corporate has the meaning given to that term by section 9 of the *Corporations Act 2001* (Cth).

Services means the services described in the Purchase Order and any additional services contemplated by clause 3(b).

Specification means the specification provided to the Customer by the Supplier in respect of each Product (if any), as amended by the Supplier from time to time.

Supplier means SITECH Solutions Pty Ltd ABN 36 137 343 090.

Supplier Mark means any registered or unregistered trademark owned by, licensed to or nominated by the Supplier from time to time.