

1. GENERAL

- 1.1 Every purchase order ("**Order**") issued by AMPAC is an offer to acquire goods and/or services from you ("the **Supplier**") subject to these terms and conditions.

2. ACCEPTANCE OF ORDER

- 2.1 The Contract shall come into existence upon acceptance by the Supplier of the Order. An acceptance may be communicated by the Supplier orally or in writing. In the absence of an express acceptance there will be a deemed acceptance of an Order that is sent by AMPAC to the Supplier by the usual method of communication between the parties and which is not expressly declined by the Supplier within two (2) business days of its receipt.
- 2.2 An Order may be withdrawn by AMPAC at any time prior to its acceptance.

3. TERMS OF CONTRACT

- 3.1 The Contract shall consist of the Order, these terms and conditions and any other document which is expressly incorporated by the written agreement between the parties ("a reference document"). A reference document that is incorporated at the time of issue of the Order is known as an Original Specification. A reference document that is incorporated after the issue of the Order is known as a Supplementary Specification.
- 3.2 Where there is any conflict or inconsistency between the documents constituting the Contract, the documents will rank in order of precedence as follows in descending order:
- (1) a Supplementary Specification (if any);
 - (2) the Order;
 - (3) the Original Specification; and
 - (4) these terms and conditions.
- 3.3 The Contract contains the entire agreement between the Supplier and AMPAC and supersedes all prior communications and negotiations between the Supplier and AMPAC.
- 3.4 No terms or conditions submitted by either party that are in addition to, different from or inconsistent with those contained in the Contract, including without limitation, Supplier's printed terms and conditions, or any terms and conditions contained in any order acknowledgment, confirmation, acceptance, bill of lading or other instrument, shall not be binding upon either party unless specifically and expressly agreed to in writing signed by duly authorised representatives of both parties.
- 3.5 The Contract will commence on the earlier of the date of acceptance of the Order by the Supplier or the date the Supplier commences to supply the Deliverables, and will remain in force, unless terminated earlier in accordance with the Contract, until the completion by the Supplier of all its obligations under the Contract.
- 3.6 No amendment or variation of the Contract is valid or binding on a party unless made in writing and signed by the Supplier and AMPAC.

4. SUPPLY DATE

- 4.1 The Services shall be performed, and the Goods delivered by the Supply Date and time is of the essence in the performance of the Supplier's obligations under this Contract.

4.2 If any circumstance arises which may delay the delivery of the Goods or supply of the Services the Supplier must immediately notify AMPAC in writing of the circumstances and propose a revised Supply Date which AMPAC may elect to accept or not to accept in its own discretion. The exercise by AMPAC of its rights under this clause shall be without prejudice to any claim for damages or other rights it may have against the Supplier.

4.3 AMPAC may terminate the Contract if the Supplier does not perform the Services or supply the Goods before the Supply Date.

5. DELIVERY OF GOODS

5.1 The Supplier may not make partial deliveries of Goods unless these deliveries have been approved by AMPAC in its sole discretion and confirmed in writing.

5.2 All deliveries of Goods must be accompanied by a Supplier shipping or delivery docket that clearly states AMPAC's order number, description and quantity of the Goods being delivered. Legal and beneficial ownership of the Goods shall pass to AMPAC upon delivery.

5.3 The Supplier shall pack the Goods to ensure that no loss or damage results from weather conditions or transportation.

5.4 AMPAC may specify the method of delivery of Goods required at the time of placing the Order. Where the Supplier arranges transportation of the Goods, risk remains with the Supplier until the Goods are delivered to the Delivery Point and received by AMPAC.

Where any Goods are incorrectly delivered to an address which is different to the Delivery Point, any cost incurred to transfer the Goods to the correct Delivery Point will be the responsibility of the Supplier.

5.5 The Supplier acknowledges that AMPAC may return part or all of any shipment of Goods received after the Supply Date and charge the Supplier with any loss or expense sustained as a result of the Supplier's failure to deliver the Goods in accordance with the Contract.

Ownership in any Goods rejected by AMPAC will pass to the Supplier upon rejection by AMPAC, and, if held by AMPAC, will be held at the Supplier's risk.

5.6 The Supplier acknowledges that in the case of Goods that the Contract specifies are to be installed and/or commissioned it shall not be taken to have delivered the Goods until all installation and/or commissioning has been completed to the satisfaction of AMPAC.

6. PRICE

6.1 The price payable for the Deliverables ("the **Contract Price**") shall be that specified in the Order unless such price is subject to alteration in accordance with a formula agreed in writing by the parties.

6.2 The Contract Price is all inclusive and is the total amount payable by AMPAC and (without limitation) includes all GST (or other Indirect Transaction Taxes), charges and fees payable on or in respect of the Deliverables. AMPAC shall not be liable for additional costs or charges or an increase in the Contract Price unless accepted by it in writing prior to the delivery of the Goods or prior to the commencement of provision of the Services.

6.3 The Contract Price shall include the cost of containers, packing and all transport charges to the Delivery Point unless otherwise specified in the Order.

6.4 If stated in the Order, a completed and signed certificate that the Goods comply with the agreed specification (a "certificate of conformance") must be attached to the shipping document and/or the Supplier's invoice before the invoice will be payable by AMPAC.

7. ORDER VARIATIONS

- 7.1 AMPAC may at any time by notice in writing to the Supplier vary an Order, to make a change to the quantum or composition of the Deliverables or a change to the Supply Date or the Delivery Point.
- 7.2 If such variation causes an increase or decrease in the Supplier's costs necessitating an adjustment to the Contract Price or a change in the required Supply Date, the Supplier must notify AMPAC in writing within 5 business days of receipt of the variation notice given pursuant to clause 7.1.
- 7.3 The Supplier must not supply the Deliverables as varied until it has received a written instruction to proceed with the variation and a reasonable adjustment has been agreed to the Contract Price or required Supply Date. If the Supplier proceeds to carry out work without written instructions, it will be barred from claiming any adjustment to the Contract Price and the Supplier releases AMPAC from any liability to compensate the Supplier in any way in respect of the variation.

8. INVOICES

- 8.1 The Supplier must, unless otherwise agreed with AMPAC, render an invoice for the Contract Price to AMPAC in relation to the provision of the Deliverables at the end of each month during the period in which the Deliverables are supplied.
- 8.2 Invoices must be in a form acceptable to AMPAC and must contain the following information:
- (1) the number of the Order to which the invoice relates;
 - (2) a brief description of the Deliverables provided in the period covered by the invoice;
 - (3) show any component of the Contract Price comprising Indirect Transaction Tax charged by the Supplier as a separate amount;
 - (4) any further verification or documentation in relation to the invoice as is reasonably required by AMPAC, and
 - (5) must be sent to AMPAC's office that has raised the Order.
- 8.3 AMPAC must receive all invoices by the 25th day of each month in order for payment to be made in accordance with clause 9.2.
- 8.4 If AMPAC disputes any amount shown on an invoice, it shall pay to the Supplier any amounts not in dispute in accordance with clause 9.2, provided that the payment by AMPAC of any amount the subject of a disputed invoice is not to be considered as an acceptance of the amount in dispute or of AMPAC's liability to make that payment.
- 8.5 Without limiting clause 8.4, if the Supplier discovers or is advised of any errors or exceptions relating to its invoicing for the Deliverables, the Supplier and AMPAC must jointly review the nature of the errors or exceptions, and the Supplier must, if appropriate, take prompt corrective action and adjust the relevant invoice or refund overpayments.

9. PAYMENTS TO SUPPLIER

- 9.1 Unless otherwise provided in the Contract, all payments required to be made to the Supplier by AMPAC in relation to the supply of Deliverables will be made in the local currency where the purchasing AMPAC entity is based by electronic funds transfer into the Supplier's nominated bank account.

9.2 If the Contract provides that any of the amounts referred to in clause 9.1 are to be paid to the Supplier:

- (1) outside the jurisdiction where the purchasing AMPAC entity is based;
- (2) other than in the local currency where the purchasing AMPAC entity is based; or
- (3) In a manner subject to control by any Government Agency,

payment is conditional upon AMPAC obtaining the necessary authorities and consents to the making of that payment. In the event that despite making reasonable effort to obtain requisite authorities and consent, AMPAC is not permitted to make payment in the manner provided in the Contract, then the Supplier must accept payment in the local currency where the purchasing AMPAC entity is based (at the exchange rate applicable at the date of payment).

9.3 Subject to clauses 8.4, 9.2, 10 and 18.2, AMPAC will pay to the Supplier the amount shown on the Invoice within the agreed period from when the invoice is received.

10. DEDUCTIONS

10.1 AMPAC may:

- (1) deduct from any moneys due or becoming due to the Supplier the following amounts (including any Indirect Transaction Taxes in respect of deductions payable in accordance with clause 15):
 - (i) all liabilities which AMPAC may have incurred and for which the Supplier or its Personnel is or are liable (including pursuant to an indemnity contained in the Contract); and
 - (ii) the cost of remedying any performance of Services below the requisite standard, or repairing or replacing defective or damaged Goods; or
- (2) without prejudice to AMPAC's rights pursuant to any other provision of the Contract, if the Supplier fails to perform any of its obligations under the Contract, withhold payment of all or part of any amount payable to the Supplier under the Contract, until the matter has been remedied.

10.2 If AMPAC is required by law to withhold or deduct any amount ("Deducted Amount") from an amount payable under the Contract, the Deducted Amount will be treated as having been paid to the Supplier when it is withheld or deducted and AMPAC will not be liable to pay any amount on account of the Deducted Amount to the Supplier.

10.3 If AMPAC fails to withhold or deduct a Deducted Amount, AMPAC may:

- (1) give notice to the Supplier demanding payment of an amount equal to the Deducted Amount and the Supplier will pay that amount to AMPAC with 30 days of receiving the notice; or
- (2) deduct an amount equal to the Deducted Amount from any amounts payable by AMPAC to the Supplier and the amount so deducted will be treated as having been paid to the Supplier when it is deducted and AMPAC will not be liable to pay any amount on account of the Deducted Amount to the Supplier; or
- (3) recover an amount equal to the Deducted Amount by a combination of a demand under clause 10.3(1) and deducting an amount under clause 10.3(2); and

- (4) in each case where the failure to withhold or deduct the Deducted Amount arises as a result of any act, omission or oversight of the Supplier, the Deducted Amount will include any fines, penalties or interest payable by AMPAC in respect of the Deducted Amount.

11. SUPPLIER'S WARRANTIES

11.1 The Supplier warrants to AMPAC that:

- (1) all of the Deliverables will be provided in an efficient and timely manner in accordance with all applicable legislation and laws or regulations;
- (2) all the Deliverables will be in accordance with the Contract (being of premium quality unless otherwise specified in the Order) and any applicable laws and standards.
- (3) the Supplier holds all necessary permits, licences, consents and approvals to undertake the Supplier's obligations under this Contract;
- (4) it will provide all necessary equipment, materials and labour that may be required to supply the Deliverables;
- (5) it has complied and will continue to comply with all Anti-Corruption Laws and Anti-Slavery Laws in connection with the sourcing and supply of the Deliverables and it has systems and procedures in place to ensure that its suppliers and subcontractors do likewise comply;
- (6) in relation to the performance of the Services:
 - (i) the Supplier and its Personnel will exercise the standards of diligence, skill and care normally exercised by a similarly qualified and competent person in the performance of comparable work; and
 - (ii) any equipment used onsite by the Supplier will be in safe working condition, will comply with all legislation which is applicable to such equipment and will be operated by suitably qualified and competent Personnel, to the satisfaction of AMPAC;
 - (iii) it will obtain at its cost all usual trade warranties and any warranties specifically requested by AMPAC applicable to goods and materials supplied incidentally to the Services and that on completion of the Services it will assign the benefit of any such unexpired warranties to AMPAC; and
 - (iv) the Services and any resulting products of those Services will be free from defects in design, materials and workmanship and reasonably fit for any particular purpose made known to the Supplier by AMPAC for the duration of the Warranty Period.
- (7) in relation to the provision of Goods:
 - (i) all the Goods will be of merchantable quality;
 - (ii) all the Goods meet the description, specifications and quality in the Order;
 - (iii) all the Goods will be free from defects in design, materials and workmanship for the duration of Warranty Period;
 - (iv) all the Goods will be fit for the purpose for which goods of the same kind are commonly supplied and any purpose which AMPAC makes known to the Supplier for the duration of Warranty Period, and are accompanied with any necessary instructions, technical documents, operating service manuals and applicable warranties;

- (v) it has good and marketable title to the Goods and AMPAC will receive title to the Goods free of any charge or encumbrance; and
- (vi) the Goods shall conform with any sample or demonstration model shown to AMPAC;
- (vii) spare parts and repair facilities for the Goods will be available for a reasonable time after Supply Date.

12. WARRANTY PERIOD

- 12.1 Unless otherwise agreed, the warranty period for all Deliverables supplied by the Supplier shall be for a period of twelve (12) months from acceptance of the Deliverables by AMPAC.
- 12.2 If required to do so by AMPAC, the Supplier shall at its sole cost rectify any defect in the Goods that exists at the Supply Date or which becomes apparent prior to the expiration of the Warranty Period.
- 12.3 Upon receipt of written notice from AMPAC of any defect in any Goods during the Warranty Period due to defective design, materials, workmanship, unmerchantable quality or unfitness or intended purpose, the defective Goods must be immediately redesigned, repaired or replaced as appropriate by the Supplier at no cost to AMPAC.
- 12.4 If the Supplier fails to correct any defect in the Goods identified by AMPAC pursuant to clause 12.3 AMPAC may correct any such defect at the Supplier's risk and cost and any costs and expenses incurred by AMPAC will be recoverable from the Supplier as a liquidated debt due and payable on demand.
- 12.5 If required to do so by AMPAC, the Supplier shall at its sole cost resupply any defective Services which become apparent prior to the expiration of the Warranty Period.
- 12.6 If the Supplier fails to resupply or otherwise correct any defect in the Services identified by AMPAC pursuant to clause 12.5 AMPAC may correct any such defect at the Supplier's risk and cost and any costs and expenses incurred by AMPAC will be recoverable from the Supplier as a liquidated debt due and payable on demand.

13. INSPECTION

- 13.1 AMPAC has the right to inspect any of the Goods at any time prior to Supply Date to determine whether the Goods conform to the Contract.
- 13.2 The Supplier must ensure that AMPAC has access to the Goods at all times and the Supplier must provide all facilities necessary for the supervision, inspection and testing of all Goods at the Supplier's facilities or wherever the Goods are stored in the course of manufacture.
- 13.3 Subject to clause 13.4, if upon inspection the Goods are found not to be in accordance with the Contract the whole of the expense incurred by AMPAC in respect to the inspection of the Goods including without limitation, any costs associated with restoring Goods to a condition which is in accordance with the Contract, will be borne by the Supplier.
- 13.4 If AMPAC gives the Supplier reasonable notice that AMPAC wishes to inspect any Goods before manufacture is completed, and the Supplier completes manufacture of the Goods without first giving AMPAC a reasonable opportunity to inspect the Goods, any expense incurred as a result of dismantling or opening up and reassembling the Goods will be borne by the Supplier.

14. INSURANCE

- 14.1 The Supplier warrants that it has obtained and shall maintain all insurance cover required by law and by the Contract including but not limited to the following:
- (1) public and products liability insurance of not less than twenty million dollars (\$20,000,000) any one occurrence;
 - (2) workers compensation insurance in accordance with the law of the jurisdiction in which the work is performed;
 - (3) sufficient property insurance to cover raw materials, required for the manufacture of Goods, supplied by and belonging to AMPAC and stored by the Supplier.
- 14.2 The Supplier shall store any materials supplied to it by AMPAC separately from any other materials or goods belonging to it or its other customers and such materials shall be clearly marked with AMPAC's name and Order number.
- 14.3 As and when requested by AMPAC, the Supplier shall provide certificates of currency of the policies of insurance to AMPAC.

15. TAXES

- 15.1 All amounts payable under or in connection with this Contract, (including any amount by way of reimbursement, indemnity, damages or otherwise) are inclusive of Indirect Transaction Taxes, unless expressed otherwise.
- 15.2 The Supplier shall ensure that each invoice it presents to AMPAC in respect of any Indirect Transaction Taxes is in a form that complies with applicable taxation laws ("a Tax Invoice"). If the Supplier fails to provide AMPAC with a Tax Invoice within the time period required by applicable law of that jurisdiction, AMPAC may withhold payment of the amount payable on account of Indirect Transaction Taxes, until such time as a Tax Invoice is received.
- 15.3 Each party will take reasonable steps to cooperate with and provide all necessary assistance to the other party to ensure so far as possible that the most favourable taxation treatment for the other party is accepted by the relevant government agency, including the provision of invoices, proof of payment, proof of source and/ or origination and other documentation for this purpose.

16. ACCURACY OF INFORMATION

- 16.1 AMPAC does not warrant or guarantee the accuracy or sufficiency of any information provided to the Supplier by AMPAC or its Personnel in connection with the Deliverables and disclaims all responsibility for it.
- 16.2 The Supplier agrees that it has satisfied itself as to the accuracy of any information given to it at any time prior to commencement of the performance of the Services and accepts full responsibility for any use by it of such information including without limitation, responsibility for any conclusions drawn by it from such information.
- 16.3 AMPAC shall not be liable for any liabilities incurred or suffered by the Supplier as a result of its reliance in any way upon any information given to it by AMPAC.

17. INTELLECTUAL PROPERTY

- 17.1 The Supplier warrants that to the extent that it uses the Intellectual Property Rights of any third party in respect to performance of the Contract it has obtained, or will obtain at no further cost to AMPAC, from the relevant third party all necessary licences and consents

- to use, or assignments of such Intellectual Property Rights and that as at Supply Date it will not be in breach of any of these licences or assignments.
- 17.2 The Supplier will indemnify AMPAC for any liabilities incurred by AMPAC resulting from any actual or alleged infringement of any Intellectual Property Rights of any third party arising out of:
- (1) the performance of the Services by the Supplier;
 - (2) the supply of the Goods to AMPAC.
- 17.3 If AMPAC is prevented from (as the case requires) utilising all or any part of the Deliverables as a result of any claim in relation to an infringement of Intellectual Property Rights, the Supplier must (at its cost) take all reasonable steps to procure for AMPAC the right to (as the case requires) utilise the Deliverables or the relevant part of the Deliverables for the purpose for which it was intended.
- 17.4 If the Supplier cannot procure the rights referred to in clause 17.3 within a reasonable time (but not exceeding 60 days unless AMPAC otherwise agrees), it must notify AMPAC accordingly and AMPAC may, without prejudice to its other remedies, direct the Supplier to immediately (at the Supplier's cost):
- (1) replace the Goods affected or the relevant part of the Goods with equivalent goods which do not infringe or violate the Intellectual Property Rights; or
 - (2) discontinue provision of the Services and reimburse AMPAC any compensation and other moneys already paid to the Supplier and pay to AMPAC any costs or other expenses that may have been paid or incurred by AMPAC in connection with the discontinued Services.

18. SUPPLIER DEFAULT

- 18.1 If the Supplier breaches any term of the Contract that is capable of remedy, AMPAC may serve a notice of default (**Supplier Default Notice**) on the Supplier containing the information specified in clause 18.2.
- 18.2 A Supplier Default Notice must:
- (1) require that the breach be remedied within a specified period of not less than 30 days after service of the Supplier Default Notice on the Supplier; and
 - (2) state that if the breach is not remedied within the period specified in the Supplier Default Notice or is incapable of remedy, then AMPAC may by further notice to the Supplier do one or more of the following:
 - (a) elect wholly or partly to suspend payment under the Contract until the breach has been remedied by the Supplier;
 - (b) take such action as AMPAC deems necessary to cure the breach (the cost of such action so taken by AMPAC being recoverable from the Supplier as a debt due to AMPAC by the Supplier); or
 - (c) terminate the Contract or any part of it with effect from a specified date (“the **Cancellation Date**”).
- 18.3 If the Supplier breaches any term of the Contract that is incapable of remedy, AMPAC may serve a notice (“the **Termination Notice**”) on the Supplier terminating the Contract or a relevant part of it with effect from a specified date (“the **Cancellation Date**”).

- 18.4 If AMPAC gives notice pursuant to clause 18.2(2)(c) or clause 18.3, the Contract is terminated from the Cancellation Date and the Supplier must:
- (1) cease performance of the Services in accordance with, but only to the extent specified in, the Supplier Default Notice;
 - (2) immediately take all possible action at its cost to ensure the safety and the protection of all Goods and materials;
 - (3) immediately take all possible action to mitigate any liabilities incurred by it as a result of such termination;
 - (4) take any other action reasonably required by AMPAC in relation to the termination.
- 18.5 Following a breach of the Contract by the Supplier which is incapable of remedy or which the Supplier does not rectify following service of a Supplier Default Notice the whole of any cost of expense, loss or damage incurred by AMPAC as a result of the breach including any additional cost to AMPAC of acquiring substitute goods and acquiring services from a third party will be a liquidated debt due by the Supplier to AMPAC immediately upon AMPAC making demand for that amount.
- 18.6 Notwithstanding the terms of any Supplier Default Notice or Termination Notice, no action taken by AMPAC under this clause 18 will prejudice the existence of any of its rights and remedies under the Contract which AMPAC may have as a result of the relevant breach.

19. TERMINATION

- 19.1 AMPAC may without prejudice to any other rights or remedies hereunder, forthwith terminate the Contract by notice in writing if an Insolvency Event occurs in relation to the Supplier.
- 19.2 Clauses 10, 11, 12, 17 and 255 shall survive the termination of the Contract.

20. ANTI-SLAVERY

- 20.1 The Supplier must at all times:
- (1) comply with all relevant Anti-slavery Laws, and ensure that no forced labour, slavery, servitude or similar practices are in any way involved in supply of the Goods;
 - (2) maintain appropriate policies and procedures designed to ensure your compliance with Anti-slavery Laws; and
 - (3) supply all information and evidence reasonably requested by us concerning your compliance with this clause within 30 days of receiving a written request from us.

21. ANTI-CORRUPTION

- 21.1 The Supplier must not give or offer to give (directly or indirectly) to any person any bribe, gift, gratuity or other thing of value, which would or could be construed as a corrupt practice, as an inducement or reward including but not limited to the Anti-corruption Laws:
- (1) for doing or attempting to do any action in relation to this Agreement; or

- (2) for showing or for attempting to show any favour or disfavour to any person in relation to this Agreement.

22. DISPUTE RESOLUTION

- 22.1 In the event of any dispute, question or difference of opinion between AMPAC and the Supplier arising out of or under the Contract (“a **Dispute**”), a party may give to the other party a notice (“ a **Dispute Notice**”) specifying the dispute and requiring its resolution under this clause 22.
- 22.2 If the Dispute is not resolved within 7 days after a Dispute Notice is given to the other party, each party must nominate one representative from its senior management to resolve the Dispute (each, a Dispute Representative).
- 22.3 If the Dispute is not resolved within 30 days of the Dispute being referred to the respective Dispute Representatives, then either party may commence legal proceedings in an appropriate court to resolve the matter.
- 22.4 During the existence of any dispute, the parties must continue to perform all of their obligations under the Contract without prejudice to their position in respect of such dispute, unless the parties otherwise agree.
- 22.5 Nothing in this clause 22 prevents a party from seeking any urgent interlocutory relief which may be required in relation to the Contract.

23. NO EXCLUSIVITY

- 23.1 Nothing in these terms of trade obliges AMPAC to request or acquire any minimum level of Goods or Services from the Supplier.
- 23.2 The Contract is not evidence of, nor does it create, an exclusive relationship between AMPAC and the Supplier in respect of the Goods or Services (or any aspect of it).

24. COSTS

- 24.1 Each party must bear its own costs arising out of the negotiation, preparation and execution of the Contract and, except as expressly provided otherwise in the Contract, any transaction contemplated by the Contract.

25. CONFIDENTIAL INFORMATION

- 25.1 The Supplier undertakes and agrees:
 - (1) to hold in strict confidence all Confidential Information and not to disclose or permit or cause the Confidential Information to be disclosed to any person other than any of its Personnel who require the Confidential Information for the purposes of providing the Deliverables; and
 - (2) not to make use of the Confidential Information (including duplicating, reproducing, distributing, disseminating or directly or indirectly deriving information from the Confidential Information), except and solely to the extent necessary for the performance of the Contract, unless the Supplier has obtained the prior written consent of AMPAC to do so (which consent may be withheld by AMPAC in its discretion or given on such terms as it sees fit).

25.2 Clause 25.1 does not apply to:

- (1) information after it becomes generally available to the public other than as a result of the breach of this clause 25 or any other obligations of confidence imposed on the Supplier; or
- (2) the disclosure of information in order to comply with any applicable law or legally binding order of any court, government agency or recognised stock exchange, provided that prior to such disclosure the Supplier gives notice to AMPAC with full particulars of the proposed disclosure.

25.3 The breach of any of the conditions contained in a consent granted pursuant to clause 25.1 will be deemed to be a fundamental breach of the Contract.

26. VIENNA SALES CONVENTION

26.1 The application of the United Nations Convention on Contracts for the International Sale of Goods (Vienna 1980) known as the Vienna Sales Convention 1980 is excluded.

27. SEVERABILITY

27.1 Any provision of the Contract which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. This does not invalidate the remaining provisions of the Contract nor does it affect the validity or enforceability of that provision in any other jurisdiction.

28. NEGOTIATION IN GOOD FAITH

28.1 Where a provision is prohibited or unenforceable, the parties must negotiate in good faith to replace the invalid provision by a provision which is in accordance with the applicable law and which must be as close as possible to the parties' original intent and appropriate consequential amendments (if any) will be made to the Contract

29. FORCE MAJEURE

29.1 If a party is prevented from or delayed in complying with an obligation (other than to pay money) by an event beyond its reasonable control, performance by it of that obligation is suspended during the time, but only to the extent that, compliance is prevented or delayed.

30. ASSIGNMENT

30.1 The Supplier shall not subcontract or assign the Contract or any of its rights and obligations under the Contract without first obtaining the consent of AMPAC which may be granted

upon such conditions as AMPAC thinks fit and maybe withheld by AMPAC in its absolute discretion.

31. WAIVER

- 31.1 A party's failure or delay to exercise or power or right does not operate as a waiver of that power or right, and the exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 31.2 A waiver is not effective unless it is in writing and is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

32. GOVERNING LAW AND JURISDICTION

- 32.1 Except as may be otherwise agreed in writing between AMPAC and the Supplier, the Contract shall be governed by the laws of the applicable jurisdiction of the purchasing AMPAC entity and the Supplier and AMPAC agree to submit to the Courts within that jurisdiction, being for:
- (1) AMPAC Pty Ltd, the laws in the State of Western Australia;
 - (2) AMPAC NZ Ltd, the laws of New Zealand; and
 - (3) Ampac Europe Limited, the laws of England and Wales.

DEFINITIONS

32.2 In these terms of trade:

- (1) "**AMPAC**" means the purchaser under a Contract being **AMPAC Pty Ltd** (ABN 81 634 063 200) or **AMPAC NZ Ltd.** (Company No. 7528837) or **Ampac Europe Ltd.** (Company No. 3653088) and/or any related body corporate identified in the Order;
- (2) "**Anti-Corruption Laws**" means any Laws or international conventions proscribing bribery or other corrupt business practices including:
 - (i) the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997;
 - (ii) the United Nations Convention against Corruption 2003; and
 - (iii) Chapter 4, Division 70 of the Criminal Code Act 1995 (Cth);
- (3) "**Anti-Slavery Laws**" means any and all Laws anywhere in the world which relate to anti-slavery or servitude, anti-forced or compulsory labour and/or anti-human trafficking, including the Modern Slavery Act 2018 (Cth).
- (4) "**Confidential Information**" means any information (in whatever form) or documentation of a confidential nature (or which the Supplier or its Personnel ought reasonably to know to be confidential) which relates to the business, affairs or activities of AMPAC;
- (5) "**Contract**" means a contract for the provision of Goods and/or Services by the Supplier to AMPAC arising from acceptance of an Order;
- (6) "**Contract Price**" means the price of the Deliverables calculated in accordance with clause 6;
- (7) "**Delivery Point**" means the site at which the Supplier is required to supply the Goods;
- (8) "**Deliverables**" means Goods and/or Services ordered by AMPAC;

- (9) **“Goods”** means the items specified in the Order plus any incidental services or materials required to be supplied by Supplier in order for it to fulfil its obligations under the Contract;
- (10) **“Order”** means the order submitted by AMPAC to Supplier for the supply of Goods and/or Services, including any special conditions expressed in that order;
- (11) **“Indirect Transaction Taxes”** means any goods and services tax, value added tax or similar tax including, without limit, sales, use or consumption taxes, imposed, claimed, levied or assessed by, or payable to, any government agency, but does not include any related penalty, fine or interest thereon.
- (12) **“Insolvency Event”** means (other than for the purpose of solvent reconstruction or amalgamation):
- (i) a receiver, receiver and manager, liquidator, provisions liquidator, trustee, administrator, controller, inspector appointed under any companies or securities legislation, or similar official is appointed in respect of that party or any of its property, or any security over any substantial part of its assets is enforced;
 - (ii) the party ceases to carry on all or substantially all of its business, is unable to pay its debts when due, or is deemed unable to pay its debts under any law, or makes an assignment for the benefit of, or enters into or makes any arrangement or compromise with, that party’s creditors or threatens to do so, or stops payments to its creditors;
 - (iii) the party is, becomes, or is deemed to be insolvent or bankrupt;
 - (iv) a distress, attachment or other execution is levied or enforced upon or commenced against any substantial part of its assets and is not stayed within 14 days;
 - (v) anything having a similar effect to any of the events specified above happens under the law of any applicable jurisdiction; or
 - (vi) in the event that the party is an individual, anything having a similar effect to any of the events specified above happens in respect of that individual.
- (13) **“Intellectual Property Rights”** means all industrial and intellectual property rights whether protectable by statute, at common law or in equity, including all copyright and similar rights which may subsist or may hereafter subsist in works or any subject matter, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs (whether or not registrable), rights in relation to registered or unregistered trademarks, circuit layout designs and rights in relation to circuit layouts, but excludes non-assignable moral rights and similar non-assignable personal rights or authors and producers.
- (14) **“Personnel”** means the employees, agents and subcontractors of a party;
- (15) **“Services”** means the services specified in the Order plus any incidental services or materials required to be supplied by Supplier in order for it to fulfil its obligations under the Contract;
- (16) **“Supplier”** means the person named on the Order as the supplier of the Deliverables and including, where applicable to the context, its Personnel;
- (17) **“Supply Date”** means the required date or dates by which the Deliverables must be supplied as specified in the Order, and if none is specified then it is deemed to be within a reasonable time as determined by AMPAC taking into account the nature of the Deliverables; and

- (18) "**Warranty Period**" means the warranty period applicable to the Deliverables under clause 12.1.