General Terms and Conditions of Sale

1. GENERAL

1.1 These General Terms and Conditions of Sale ("GTC") apply to all sales and services provided by the Supplier (the "Supplier"). They form an integral part of the contract concluded between the Supplier and the Buyer (each a "Party", collectively the "Parties"). These GTC shall be deemed an integral part of all offers made by the Supplier, regardless of whether they are expressly referred to in the relevant contract.
1.2 Any conflicting, deviating or supplementary general terms and conditions of the Buyer are expressly rejected by the Supplier. Any deviations from these GTC require a written agreement between the Parties to be valid.

DEFINITIONS

Unless otherwise specified in these GTC, the following terms shall have the meanings assigned to them below:
"Buyer": any natural or legal person or partnership that concludes a contract with the Supplier for the provision of contractual services;
"Services": all services to be provided by the Supplier to the Buyer, with the exception of the supply of goods;
"Supplier": the HOERBIGER Australia Pty Ltd. that provides the contractual services to the Buyer.
"Days": calendar days;
"Contract": the entirety of the contractual provisions, including in particular the mutual rights and obligations of the Supplier and the Buyer, which are agreed between the Parties and which relate to the delivery of goods and/or the provision of services (each as defined below) by the Supplier to the Buyer.
"Confidential Information": all information, data, documents and materials of any kind, regardless of their form or medium (including in written, oral, visual, electronic or any other form), which are disclosed, made available or become known to one Party directly or indirectly by the other Party or its affiliated companies, authorised representatives or appointed advisers, or which becomes known through inspection of tangible or intangible items, regardless of whether it is expressly marked as confidential or not, including in particular:
(i) technical information, know-how, processes, methods, formulas, designs, prototypes, samples, software code, algorithms and other technical documentation;
(ii) business and financial information, including business plans, strategies, financing plans, financial forecasts and analyses, budgets, price calculations and cost structures;
(iii) customer and supplier information, including customer names, customer lists, supplier directories, contract and terms and conditions details, and market and competitive analyses;
(iv) marketing plans, sales strategies, organisational structures, personnel information and internal reports; and
(v) any other information which, by its nature or due to the circumstances of its disclosure, is reasonably regarded as confidential.
"Contractual Services": the goods to be delivered and/or services to be performed by the Supplier under the Contract;
"Contract Price": the remuneration owed by the Buyer to the Supplier for the performance of the Contractual Services.
"Goods": all physical items to be supplied by the Supplier, including in particular data carriers, software and associated documentation and information;

2. CONCLUSION AND CONTENT OF THE CONTRACT

2.1 Every order placed by the Buyer shall be deemed an offer to purchase the Goods and/or Services on the terms of these GTC. A contract shall come into existence exclusively through a written order confirmation from the Supplier or through the commencement of the performance of the contractually agreed delivery of Goods and/or provision of Services by the Supplier. The content of the contract shall be determined exclusively by the Supplier's order confirmation, including these GTC and – where expressly referred to – any specifications, annexes and the quotation.
2.2 In the event of any contradictions or discrepancies between these GTC and a purchase order placed by the Buyer, the provisions of these GTC shall prevail, unless the Supplier's order confirmation expressly refers to the waiver of a specific provision of these GTC.

3. DELIVERY, TRANSFER OF RISK, ACCEPTANCE INSPECTION

3.1 Unless expressly agreed otherwise in writing or otherwise specified in the Supplier's quotation, delivery shall be Free Carrier (FCA) at the Supplier's premises in accordance with INCOTERMS 2020.
3.2 If delivery is delayed due to acts or omissions on the part of the Buyer, or if the Buyer fails to take delivery of the Goods after being notified that they are ready for dispatch, or fails to provide appropriate shipping instructions, the Supplier shall be entitled to store the goods in a suitable warehouse at the Buyer's expense and risk. The Buyer shall bear all reasonable storage costs actually incurred, including all ancillary costs (in particular insurance, transport and handling costs), plus

a handling fee amounting to five per cent (5%) of the total storage costs. Upon storage of the goods, delivery shall be deemed to have taken place, the risk shall pass to the Buyer and the Contract Price shall become due for payment.
3.3 The Supplier is entitled to make partial deliveries and to perform services in part, provided that the Supplier has given the Buyer reasonable prior notice of such partial delivery or performance.
3.4 If the Parties have expressly agreed to carry out an acceptance test, this shall be conducted in accordance with the contractual provisions during normal business hours at the Supplier's premises. All reasonable costs and expenses incurred in connection with the acceptance test shall be borne by the Buyer. The acceptance criteria and the applicable testing procedure shall be determined by mutual agreement between the Parties.
3.5 The Supplier shall notify the Buyer in good time of the date of the acceptance test so that the Buyer is able to attend. If the Buyer fails to attend the acceptance test despite having been duly notified, the Contractual Services shall be deemed to have been accepted by the Buyer.
3.6 In the case of call-off contracts, the Supplier shall agree with the Buyer on a total delivery quantity, which the Buyer shall call off within the agreed period. The call-offs, specifying the exact partial quantities, must be submitted to the Supplier no later than six weeks before the start of the respective delivery month.

4. *DELIVERY PERIOD*

4.1 Delivery dates are non-binding estimates, unless expressly a binding delivery date in writing has been agreed . In the case of non-binding delivery dates, the Supplier shall only be liable for damages resulting from delay in accordance with Clause 9. Claims arising from intent or a deliberate or reckless disregard of material contractual obligations, remain unaffected; in the latter case, liability of each Party is limited to foreseeable damage typical for the Contract.
4.2 If a delivery date cannot be met for reasons beyond the Supplier's control, or if a delay in the fulfilment of the Supplier's contractual obligations arises as a result of acts or omissions attributable to the Buyer or its representatives, and if the Supplier is thereby prevented from fulfilling them, the delivery, performance or completion date shall be adjusted accordingly. In the event of a delay attributable to the Buyer or its representatives, the Supplier shall also be entitled to charge the Buyer for all reasonable additional costs actually and reasonably incurred as a surcharge on the agreed Contract Price. Evidence of the costs must be provided to the Buyer upon request. If performance is not possible even within the adjusted period, the Supplier is entitled to withdraw from the Contract in whole or in part on reasonable notice to the Buyer. If a delay in a delivery date occurs due to trade restrictions (see Clause 21.1), the provisions of Clause 21.2 shall take precedence.

5. *PAYMENT, DEFAULT OF PAYMENT*

5.1 Unless otherwise expressly agreed in writing, the Contract Price excludes the costs of: (i) packaging; (ii) delivery and freight costs, unless these costs are to be borne by the Supplier in accordance with the applicable INCOTERMS 2020; and (iii) applicable goods and services tax and all other taxes and duties payable by the Buyer in the amount and form prescribed by law. Unless expressly agreed otherwise in the Contract, invoices shall be issued in Australian dollars.
5.2 The Supplier shall be entitled to adjust the Contract Price retrospectively, upon notice to the Buyer, to take account of any additional costs actually incurred arising from the following circumstances: (i) changes to the specifications of the goods and/or services or to the agreed delivery terms (including delivery terms expressly agreed upon that deviate from FCA INCOTERMS 2020) made at the Buyer's request and with the Supplier's consent; (ii) delays caused by the Buyer; (iii) extraordinary increases in the cost of raw materials or other procurement costs; or (iv) changes to the agreed volume or quantities. In the event of an extraordinary reduction in the cost of raw materials or other procurement costs, the Supplier may, acting reasonably, review the Contract Price and, where reasonable having regard to the overall impact of such cost changes, adjust the Contract Price accordingly, and shall provide reasonable notice to the Buyer of any such adjustment. The adjustment of the Contract Price shall in each case be limited to the actual change in costs incurred.
5.3 Payment of the Contract Price shall be made in full and without deductions. The Buyer shall only be entitled to set-off if its counterclaim is undisputed or has been established by a final and binding court decision. The Buyer may only assert rights of retention insofar as they are based on the same contractual relationship. The payment term is thirty (30) days from receipt of the invoice.
5.4 If the Buyer fails to make an undisputed payment when due, or fails to make it in full, and the outstanding amount is not settled within a reasonable grace period set in writing by the Supplier and notified to the Buyer, the Supplier shall be entitled – without prejudice to its other contractual and statutory rights – to take one or more of the following measures at its discretion, upon reasonable written notice to the Buyer, to the extent permitted by law: (a) to suspend further performance of its contractual obligations in whole or in part, including withholding outstanding deliveries; (b) to demand the provision of adequate security (in particular a bank guarantee or surety) for the outstanding payment; (c) to terminate the Contract in whole or in respect of the part not yet performed with immediate effect by written

notice; (e) to claim damages in accordance with applicable law; and (f) to set off any claims the Supplier may have against the Buyer. All reasonable costs and damages incurred by the Supplier as a result of such suspension or termination shall be borne by the Buyer.

5.5 In the event of late payment, the Supplier shall be entitled to charge default interest at a rate of nine per cent (9%) p.a. above the case rate target set by the Reserve Bank of Australia from time to time. Interest on arrears shall be calculated from the day following the due date until receipt of full payment. The Supplier reserves the right to claim further damages for delay and other statutory claims. All reminder and debt collection costs incurred as a result of the Buyer's delay in payment, including reasonable legal fees, shall be borne by the Buyer.

***6.** WARRANTY AND NOTIFICATION OF DEFECTS*

6.1 The Buyer bears sole responsibility for the selection of the Contractual Services and their suitability for the Buyer's intended purpose. The Supplier gives no warranty that the Contractual Services are suitable for a specific purpose intended by the Buyer, unless this has been expressly agreed in writing.

6.2 Subject to the exceptions, limitations and conditions set out in these GTC, the Supplier warrants that the Goods and Services shall, at the time of delivery or performance, be of the quality agreed in the Contract or, where no specific quality has been agreed, shall comply with the Supplier's specifications. The Supplier accepts no warranty whatsoever in respect of the delivery of prototypes. Unless expressly agreed otherwise between the Parties, "prototype" shall mean exclusively those parts, goods or services which, at the time of conclusion of the Contract, have not yet reached production readiness.

6.3 The Buyer is obliged to carefully inspect the Contractual Services immediately upon delivery or provision of the Service, but in any event within fourteen (14) days, for completeness, correctness and any defects. Obvious defects must be reported to the Supplier in writing without delay, but no later than fourteen (14) days after delivery or provision of the Service. Hidden defects must be reported in writing immediately upon discovery, but no later than fourteen (14) days after detection. The notice of defect must contain a detailed description of the defect.

6.4 If the Buyer fails to inspect the Goods or report defects within the time period set out in Clause 6.3, the Contractual Services shall be deemed to have been approved; warranty claims are excluded in this case.

6.5 The Buyer's claims and rights arising from defects of any kind (including hidden defects) shall become time-barred twelve (12) months after delivery of the goods or provision of the Services. If the Parties have agreed on an acceptance inspection, claims and rights arising from defects (including hidden defects) shall become time-barred twelve (12) months after acceptance by the Buyer.

6.6 The Supplier's warranty is excluded for:

(i) goods purchased second-hand by the Buyer or which have already been put into service prior to notification of the defect, insofar as the defect is attributable to previous use; (ii) natural wear and tear and normal depreciation; (iii) materials supplied by the Buyer; (iv) defects attributable to repairs, reworking, modifications or other alterations to the goods carried out by the Buyer or third parties without the Supplier's prior written consent; (v) defects resulting from (a) improper storage, (b) improper installation, (c) improper operation or handling, (d) failure to comply with the safety requirements specified by the Supplier, (e) use under operating conditions deviating from the specifications, (f) insufficient or improper repair/maintenance or servicing, or (g) use of unsuitable operating resources or replacement materials; and (vi) the use of software or spare parts not authorised by the Supplier. The warranty is also excluded if the defect is attributable to chemical, electrochemical or electrical influences for which the Supplier is not responsible.

6.7 At the Supplier's request, the Buyer shall bear all reasonable costs incurred by the Supplier in connection with the investigation and assessment of a defect claimed by the Buyer, provided that it transpires that an exclusion of warranty pursuant to this clause applies. The Buyer shall be solely responsible for the completeness and accuracy of the information provided by it in connection with the Contractual Services.

6.8 The Supplier excludes liability for defects of title, unless it had knowledge of such a defect of title at the time of conclusion of the Contract or was negligent in failing to recognise it.

6.9 Any warranty provided by the Supplier for goods containing digital elements which goes beyond the warranty provided for in these GTC, as well as any additional statutory warranty requirements relating to such goods, is excluded in relation to business customers, to the extent permitted by law.

6.10 The warranty set out in these GTC is exclusive and supersedes all other express, implied or statutory representations, warranties and conditions (including, in particular, any warranties of merchantability or fitness for a particular purpose) in connection with defects in the Goods and/or Services, to the extent that such exclusion is permitted under mandatory law.

6.10 Nothing in this Clause 6, Clause 7 or Clause 9 excludes, restricts or modifies any guarantee, right or remedy conferred on the Buyer under the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010 (Cth)) ("**Australian Consumer Law**") or any other applicable law that cannot lawfully be excluded, restricted or modified. To the extent permitted by law, the Supplier's liability for failing to comply with a consumer guarantee under the Australian Consumer Law is limited, at the Supplier's election, to the repair or replacement of the Goods, the supply of equivalent goods, payment of the cost of repair or

replacement, or the resupply of the Services or payment of the cost of having the Services resupplied. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Buyer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage, and to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.

***7.** REMEDY OF DEFECTS*

7.1 If, at the time of the passing of risk, the Goods or Services do not possess the contractually agreed quality, the Supplier shall be obliged to remedy the defect. The Supplier shall be entitled to effect subsequent performance by rectification (repair or replacement of the defective parts) or by subsequent delivery (replacement of the defective Goods or Services with goods or services free from defects).
7.2 The Supplier is entitled to attempt rectification on multiple occasions and to choose between repair and replacement. The Supplier shall bear the costs incurred in connection with the subsequent performance, in particular transport, shipping, labour and material costs, insofar as these do not arise because the Goods have been moved to a location other than the place of performance, or because the defect claimed by the Buyer is not recognised as a defect by the Supplier (acting reasonably), or is not covered by the warranty. The choice of the most cost-effective method of rectifying the defect is at the reasonable discretion of the Supplier. The Supplier is entitled to demand reimbursement from the Buyer for any unjustified costs incurred in rectifying the defect. This includes expenses for the removal and installation of goods that have been integrated into or connected to another item.
7.3 Rectified or replaced Goods and/or Services are covered by the warranty exclusively for the remaining duration of the original warranty period; the warranty period shall not be extended or restarted as a result of the rectification.
7.4 Subject to the agreed delivery terms, the Buyer is obliged, at the Supplier's request, to return the defective Goods to the Supplier at the Supplier's cost. In the event of a replacement delivery, the replaced Goods must be returned to the Supplier at the Supplier's cost and in accordance with the agreed delivery terms. Ownership of the replaced Goods reverts to the Supplier upon replacement delivery, provided that it had previously passed to the Buyer.
7.5 To the extent permitted by law, the remedies provided for in these GTC in the event of defects in Goods and/or Services are exhaustive. Any further claims, on the part of the Buyer are excluded, unless the damage is due to wilful misconduct or negligence on the part of the Supplier, a legal representative or a vicarious agent.

***8.** RETENTION OF TITLE, SOFTWARE LICENCE, OWNERSHIP OF THE SUPPLIER'S TOOLS*

8.1 The Supplier retains title to the Goods until full payment has been made of all present and future claims (including, in particular, ancillary claims arising from interest and claims for reimbursement of expenses or costs) arising from the Contract, in accordance with the following conditions ("**Secured Claims**").
8.1.1 The Goods may not be pledged to third parties or transferred as security prior to full payment of the secured claims. The Buyer may not dispose of the Goods in any way that impairs the Supplier's rights. The Buyer must notify the Supplier immediately in writing if and to the extent that third parties seize the Goods – in particular through attachment – or if an application is made to open insolvency proceedings against the Buyer's assets. The Buyer shall bear all costs necessary to defend against such seizure and to recover the Goods, insofar as these costs cannot be recovered from third parties.
8.1.2 The Buyer is entitled to resell and/or process the Goods in the ordinary course of business subject to the conditions set out below. The 'ordinary course of business' shall no longer apply if the Buyer defaults on payment towards the Supplier.
8.1.3 If the Goods subject to retention of title are processed, transformed or combined, mixed or blended by the Buyer with other items not belonging to the Supplier, such processing, combination, mixing or blending shall be carried out on behalf of the Supplier as the manufacturer in accordance with applicable Australian law (including, where relevant, the *Personal Property Securities Act 2009* (Cth)), without this giving rise to any obligations on the part of the Supplier. The newly created item shall be deemed to be Goods within the meaning of this Contract. The Supplier shall immediately acquire ownership or – if the processing, combination, mixing or blending is also carried out with materials from other suppliers or with the Buyer's items – co-ownership of the newly created item in the ratio of the invoice value (gross invoice amount including any applicable goods and services tax) of the Goods subject to retention of title to the invoice value of the other materials used at the time of the processing, combination, blending or mixing, limited in the specific amount to the invoice value (gross invoice amount including any applicable goods and services tax). In the event that the Supplier does not acquire such ownership, the Buyer hereby assigns his future ownership or – in the aforementioned proportion – his future co-ownership of the newly created item or his claim to the new item to the Supplier by way of security. The Supplier hereby accepts this transfer. Processing, mixing, transformation, combining, blending and/or amalgamation may not take place if the Buyer uses materials from a third party which, for its part, does not accept the (co-)manufacture by the Supplier in the

aforementioned proportion. The same applies to the transfer of (co-)ownership in the aforementioned circumstances. Should the Buyer nevertheless process, transform or combine, mix or blend the Goods with other items not belonging to the Supplier, the Buyer hereby transfers – in the aforementioned proportion – all his rights to the newly created item or claims against third parties to the Supplier.

8.1.4 Upon resale of the Goods subject to retention of title – whether before or after processing, combination, blending or mixing – the Buyer hereby assigns to the Supplier, by way of security, his claims against the purchaser arising from the resale in the amount of the gross invoice amount (including any applicable goods and services tax) outstanding at the time of the resale. The Buyer undertakes to record an appropriate book entry without undue delay following the valid agreement of these GTC; in addition, the Buyer is obliged, at the time of any onward sale, to separately notify the purchaser of the assignment (notification to the third-party debtor).

The Supplier hereby accepts the assignment. If the Supplier has acquired only co-ownership in accordance with Clause 8.1.3, the advance assignment shall extend to the amount corresponding to the Supplier's share of co-ownership in the resold item.

8.1.5 The Buyer shall remain entitled to collect the claims assigned under Clause 8.1.3 provided that it duly meets its payment obligations to the Supplier and does not fall into arrears. The authorisation to collect shall lapse without separate revocation if the Buyer falls into arrears, suspends payments or an application is made to open insolvency proceedings in respect of its assets. In this case, the Supplier shall be entitled to collect the claims assigned to it itself. The Buyer shall then be obliged to notify the Supplier immediately of the assigned claims and their debtors, to provide all information necessary for collection, to hand over the relevant documents and to notify the third-party debtors of the assignment.

8.1.6 The Buyer is obliged to insure the Goods, including the items that have replaced them in accordance with clause 8.1.3, at its own expense against fire, water, theft and other damage to an adequate extent at replacement value. The Buyer hereby assigns to the Supplier all claims against the insurer to which it is entitled in the event of such an insured event, in the amount of the invoice value of the Goods. The Supplier hereby accepts the assignment. At the Supplier's request, the Buyer must provide proof of insurance. If the Buyer fails to provide such proof within a reasonable period set by the Supplier, the Supplier shall be entitled to insure the Goods itself at the Buyer's expense.

8.1.7 In the event of damage to the Goods resulting from a tortious act by a third party, the Buyer hereby assigns claims against third parties in the amount of the ratio specified in Clause 8.1.3. The Buyer undertakes to make an appropriate entry in its books without undue delay following the valid agreement of these GTC. Supplier hereby accepts the assignment.

8.1.8 If maintenance and inspection work on the Goods is required during the period of validity of the retention of title or the security interests under this Contract, the Buyer shall carry this out in good time at its own expense.

8.1.9 If the realisable value of the security to which the Supplier is entitled under the foregoing provisions exceeds the secured claims by more than 10% in total, the Supplier shall, at the Buyer's request, be obliged to release security to the extent of such excess, at the Supplier's discretion.

8.1.10 In the event of a breach of the Contract by the Buyer – in particular failure to pay the purchase price when due – the Supplier shall be entitled to withdraw from the Contract and/or to demand the return of the Goods on the basis of the retention of title. If the Buyer fails to pay the purchase price due, the Supplier may only exercise these rights if it has previously set the Buyer a reasonable deadline for payment without success. The costs of surrendering the Goods and any subsequent realisation thereof shall be borne by the Buyer.

8.2 Insofar as software forms part of the contractual services, the Buyer is granted only a licence in accordance with Clause 11.3. Neither these GTC nor any offer or the performance of services by the Supplier shall be construed as transferring or granting to the Buyer any ownership rights, rights of use, rights of exploitation, assignments or other rights or legal interests in the intellectual property rights of the Supplier or its affiliated companies.

8.3 Insofar as tools (in particular moulds, jigs or special tools) embodying the Supplier's specific know-how and/or trade secrets are used in the performance of the contract, such tools, including all associated descriptions and documentation, shall remain the property of the Supplier. Upon termination or expiry of the contract, the Buyer shall have no right to the return, inspection or use of these tools. The Supplier is entitled to destroy the tools upon termination of the Contract.

9. *LIMITATION OF LIABILITY*

9.1 (a) The Supplier shall be liable for damages (including indirect and consequential damages of any kind) resulting from wilful misconduct or a deliberate or reckless disregard of a material contractual obligation. (b) In cases of negligence, the Supplier shall be liable only for breaches of material contractual obligations; in such cases, liability shall be limited to foreseeable damages typical for this type of Contract. (c) However, within the scope of the foregoing sub-clause (b), the Supplier shall only be liable for direct damage, and the amount of such liability shall be limited to the lower of the following amounts: (i) the annual turnover which the Supplier generated with the Buyer from the Goods delivered and/or Services provided under the relevant contract in

the calendar year preceding the calendar year in which the damage and/or defect occurred; or (ii) the value of the consignment of Goods or batch delivered under the contract to which the defect or damage is attributable. (d) Liability for damages resulting from injury to life, limb or health remains unaffected. (e) Nothing in this clause limits or restricts liability that cannot be limited by law, including under the Australian Consumer Law.

9.2 The Supplier shall be liable to the same extent for breaches of duty by its legal representatives and vicarious agents.

9.3 The Buyer shall have a comprehensive and immediate duty to notify the Supplier of any damage or of any circumstance that could lead to damage, from the moment the Buyer becomes aware of such damage or circumstance. If the Buyer fails to take reasonable steps to mitigate the damage, the Buyer's claim may be reduced to the extent that such failure increased the damage.

10. FORCE MAJEURE

10.1 Neither Party shall be liable for any failure to perform or delay in performing its contractual obligations to the extent that such failure or delay is attributable to circumstances or events beyond its reasonable control, including in particular

(i) epidemics, pandemics or quarantine measures,

(ii) strikes, lockouts or official orders,

(iii) war or (para-)military conflicts, land, air and/or sea blockades and embargoes,

(iv) acts of terrorism, including cyber-attacks and measures to combat cybercrime, sabotage, military mobilisation, uprisings and civil unrest,

(v) natural disasters (including volcanic eruptions), fire, floods,

(vi) restrictions in the use of utilities, as well as defective or delayed deliveries or services by subcontractors – including the insolvency of such subcontractors – provided that these are caused by the circumstances referred to in this clause (each a **"event of force majeure**").

10.2 If the Supplier is compelled, due to an event of force majeure, to reduce or suspend its contractual performance in whole or in part, it shall not be liable for the resulting delay or non-delivery. The performance period shall be extended by the time required to remedy the effects of the event of force majeure, plus a reasonable period for the Supplier to resume operations. The Supplier shall also be entitled, during a supply shortage caused by an event of force majeure, to procure substitute raw materials or substitute components at the prevailing market price at the Buyer's request; the resulting additional costs shall be borne by the Buyer.

10.3 The Party invoking an event of force majeure must notify the other Party in writing immediately upon the occurrence and upon the cessation of the event of force majeure.

10.4 Notwithstanding the occurrence of an event of force majeure, the Buyer shall be obliged to pay the Contract Price attributable to the deliveries and/or Services already provided to up to the occurrence of the event of force majeure, as well as all contract-related costs and expenses reasonably incurred by the Supplier prior to the occurrence of the event of force majeure.

10.5 If an event of force majeure continues uninterrupted for more than ninety (90) days, either Party shall be entitled to terminate the Contract extraordinarily with immediate effect by giving written notice to the other Party, without this giving rise to any claims for damages by the other Party. In the event of such termination, the Buyer shall pay the Contract Price attributable to the Contractual Services rendered up to the date on which the termination takes effect, as well as all reasonable contract-related costs and expenses incurred by the Supplier up to that date.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 All drawings, documents and other technical information which the Supplier makes available to the Buyer in connection with the Contractual Services or their manufacture, either before or after the conclusion of the Contract, shall remain the property of the Supplier. Unless expressly declared binding in writing, these documents represent only non-binding approximate values. The Buyer may not use the aforementioned drawings, technical documents and other technical information for purposes other than those contractually agreed, nor may the Buyer copy, reproduce or make them available to third parties without the Supplier's prior express written consent.

11.2 All copyright and other intellectual property rights in software and/or firmware that is integrated into the Contractual Services or made available to the Buyer for use in connection with them, as well as in the documentation supplied with the Contractual Services, shall remain with the Supplier or the respective third-party rights holder and shall not be transferred to the Buyer.

11.3 Unless otherwise agreed, the Buyer is granted a non-exclusive, non-transferable, fully paid-up licence to use the software and documentation solely in conjunction with the Goods and agreed equipment. Should third-party software form part of a Contractual Service or be integrated therein, the Buyer must comply with the third party's licence terms, insofar as these are provided to the Buyer by the Seller or otherwise notified to and made available in a suitable manner. The Buyer is not entitled to copy, modify, sub-license, reproduce, extend, disassemble, reverse engineer, decompile, use beyond the scope agreed in the Contract, or make publicly available the software and/or documentation, in whole or in part, unless this is expressly permitted by

mandatory law. The Buyer must treat the software and documentation as strictly confidential and must not disclose them to third parties or permit third parties to access them; this does not apply to the Supplier's standard operating and maintenance manuals. The Buyer is entitled to transfer the above licence to a third party who purchases, hires or leases the goods, provided that such third party acknowledges the provisions of this clause in writing and undertakes to comply with them.

11.4 The Supplier and its affiliated companies shall remain the sole owners of all inventions, designs and processes developed or created by them. Unless expressly provided otherwise in this clause, no rights to intellectual property shall be granted or transferred to the Buyer.

12. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

12.1 Subject to the limitations provided for in these GTC, the Supplier shall indemnify the Buyer against all reasonable costs, damages and expenses incurred by the Buyer as a result of a legally established or settled infringement of patents, utility models, registered designs, trade marks or copyrights of third parties (**"Third-Party Intellectual Property Rights**") arising from the contractual use or resale of the Goods.

12.2 The Supplier's obligation to indemnify the Buyer under clause 12.1 is subject to the Buyer (i) notifying the Supplier in writing, without delay upon becoming aware of it, of any claim asserted, threatened or brought against the Supplier for infringement of third-party intellectual property rights; (ii) upon the Supplier's request, leaves the sole conduct and control of all related legal proceedings and settlement negotiations to the Supplier at the Supplier's expense; (iii) assists the Supplier to a reasonable extent in defending against the asserted claim; and (iv) without the Supplier's prior express written consent, neither makes concessions nor enters into settlements that are or could be detrimental to the Supplier in relation to the asserted claim. If the Buyer fails to fulfil one or more of the above conditions, the damages that can be claimed under the Supplier's indemnity are proportionately reduced.

12.3 If an actual or alleged infringement of third-party intellectual property rights is established or asserted, the Supplier shall be entitled, at its sole discretion acting reasonably, to take one or more of the following measures at its own expense: (i) to procure for the Buyer the right to continue using the Goods in question in accordance with the Contract; (ii) to modify the Goods in question in such a way that the infringement is eliminated without materially impairing their contractually agreed functionality; or (iii) to replace the Goods in question with non-infringing Goods of equivalent functionality. If the Supplier has successfully implemented any of the above measures, any further claim for indemnification by the Buyer in relation to the infringement in question shall lapse.

12.4 The Supplier's obligation to indemnify is limited to infringements of intellectual property rights existing under the law of the country (i) in which the Buyer is domiciled, and/or (ii) in which the Goods are resold by the Buyer or in which the Goods are otherwise used, provided that the Supplier had positive knowledge of the resale or use in that country at the time the contract was concluded.

12.5 The Supplier's obligation to indemnify shall be excluded insofar as:

(i) the Buyer was aware of the legal defect at the time of conclusion of the Contract or was unaware of it due to negligence;

(ii) the infringement is due to the Supplier having followed a design or instruction provided by the Buyer;

(iii) the Goods were used in a manner, for a purpose, in a country or in conjunction with equipment or software not specified by the Supplier or not communicated to the Supplier prior to the conclusion of the Contract;

(iv) the Goods have been modified or combined with products of the Supplier or third parties without the Supplier's prior express written consent.

12.6 Without prejudice to the foregoing provisions in this Clause 12, all claims by the Buyer arising from and in connection with the infringement of third-party intellectual property rights shall be subject to the limitation of liability set out in Clause 9, to the maximum extent permitted by law.

12.7 The Buyer warrants that any designs, specifications or instructions provided by the Buyer shall not cause the Supplier, in the performance of its contractual obligations, to infringe any third-party intellectual property rights. The Buyer shall indemnify the Supplier against all reasonable costs, damages and claims for damages incurred by the Supplier as a result of any breach of this warranty.

13. CONFIDENTIAL INFORMATION

13.1 The Parties undertake to treat all Confidential Information of the each other as strictly confidential and to use it exclusively for the purpose of fulfilling the Contract. Neither Party shall disclose Confidential Information to third parties nor make it accessible to third parties. Each Party ("**Receiving Party**") shall exercise at least the same degree of care in protecting the Confidential Information of the other Party ("**Disclosing Party**") as it exercises in protecting its own confidential information of a similar nature, but in any event at least the care of a prudent businessman.

13.2 This clause shall not apply to information in respect of which the Receiving Party can prove that it (i) was already in the public domain at the time of disclosure without any breach of this Contract; (ii) was lawfully disclosed by a third party without any breach of a confidentiality obligation owed to the Disclosing Party; (iii) was demonstrably known to the Receiving Party prior to disclosure; or (iv) has been expressly authorised in writing by the Disclosing Party for disclosure. The Receiving Party is entitled to disclose

Confidential Information to the extent that it is obliged to do so pursuant to a court or regulatory order or due to mandatory statutory provisions, provided that such disclosure is necessary to comply with the relevant order. In such a case, the Receiving Party must inform the Disclosing Party of the disclosure obligation in advance and without delay and provide the Disclosing Party with a copy of the relevant order.
13.3 Upon the Disclosing Party's first written request (an email shall suffice), the Receiving Party shall immediately return all physical and digital originals and copies of Confidential Information – including all data, documents, presentations and compilations of any kind received in this context – to the Disclosing Party, at the Disclosing Party's discretion, or irrevocably destroy them and confirm the destruction in writing upon request.
13.4 The Receiving Party's duty of confidentiality shall continue for a period of five (5) years following the termination of the Contract. Upon expiry of this period, the Receiving Party must immediately destroy all Confidential Information still in its possession.

14. *COMPLIANCE WITH LAWS & DATA PROTECTION*

14.1 Both Parties undertake to comply with all applicable legislation in the areas of health, the environment, safety, ethics and compliance, privacy, as well as all other mandatory requirements. Each Party shall indemnify the other Party against all damages, costs and expenses incurred by a Party as a result of any breach of this obligation by the relevant Party.
14.2 Both parties are obliged to comply with the data protection and privacy laws applicable to them, including – where applicable – the Australian *Privacy Act 1988* (Cth) and Regulation (EU) 2016/679 (General Data Protection Regulation) in its current version. Each Party shall process personal information received from the other Party solely for the purpose of performing the Contract and shall ensure that any subcontractors engaged by it also use such information solely for this purpose. The disclosing Party warrants that it is authorised to transfer the relevant personal information to the receiving Party and that the necessary legal bases for doing so are in place.

15. *WRITTEN FORM*

Any additions, amendments or supplements to these GTC or to related documents (e.g. quotations, order confirmations, quality agreements, supply and/or service contracts) must be in writing and signed by both Parties to be valid; an electronic signature satisfies this requirement, provided that no stricter form is mandatory by law.

16. *SEVERABILITY CLAUSE*

16.1 Should individual provisions of these GTC or related documents be or become wholly or partially invalid, void or unenforceable, this shall not affect the validity of the remaining provisions.
16.2 The invalid, void or unenforceable provision shall be replaced by a valid and enforceable provision that most closely approximates the economic purpose of the invalid provision and the intention of the Parties.

17. *NO WAIVER*

17.1 Any failure or delay by the Supplier in exercising rights or claims against the Buyer shall not constitute a waiver of such rights or claims, nor shall it set a precedent for any future failure to exercise them.
17.2 Any waiver of rights or claims arising from these GTC or related documents shall only be valid if it is expressly stated in writing.
17.3 Any deviation from this requirement of written form must also be in writing. A waiver by implied conduct is excluded.

18. *TERMINATION*

18.1 TERMINATION FOR CAUSE
18.1.1 If a reason for termination under clause 18.1.2 arises, either Party shall be entitled (without prejudice to its other contractual rights) to terminate the Contract with immediate effect by written notice to the other Party. Insofar as the reason for termination consists of a remediable breach of Contract, termination shall only be permissible after the terminating Party has set the other Party a reasonable grace period of at least fourteen (14) days to remedy the breach and this period has expired without result. Furthermore, the Supplier shall be entitled, acting reasonably, where there is a reason for termination that applies under clause 18.1.2, to suspend all deliveries and/or services under the Contract or under any other contracts with the Buyer on prior written notice.
18.1.2 A reason for termination shall exist if: (i) the Buyer fails to pay the Contract Price or any other undisputed amount due by the due date; (ii) a Party materially breaches the Contract or any other agreement existing between the Parties; (iii) a Party is unable to settle its due liabilities, becomes insolvent, suspends payments or threatens to do so, or ceases its business operations; ; or (iv) proceedings are initiated to: (a) bring about a composition or other amicable settlement between a Party and its creditors; (b) obtain a court order for compulsory administration or appoint a receiver for a Party or its assets; (c) carry out the liquidation or dissolution of a Party; or (d) materially alter, directly or indirectly, the ownership structure and/or control of a Party, provided that this is likely to prejudice the legitimate interests of the other Party.

18.2 ORDINARY TERMINATION

Unless expressly agreed otherwise, in the case of a continuing obligation, either Party shall be entitled to terminate the Contract at any time by giving the other party thirty (30) days' written notice. In the event of ordinary termination, the Buyer shall reimburse the Supplier for all contractual services rendered up to the effective date of the termination, as well as all reasonable costs and expenses incurred.

***19.** WORK PERFORMED OFF-SITE*

19.1 If field work carried out by the Supplier or its subcontractors on the Buyer's premises, on the premises of a contractual partner of the Buyer, or on the premises of any other third party forms part of the Contract, or if such work becomes necessary during its performance, the Buyer shall be obliged to grant the Supplier access to the relevant premises in accordance with all applicable and reasonable safety standards. Insofar as the Buyer does not itself control access to the relevant premises, it must ensure that the Supplier has unhindered access.
19.2 In particular, the Buyer is responsible for identifying in good time all requirements to be met prior to the commencement of field work and, to the extent possible, for fulfilling them. This includes, in particular:
(i) obtaining the necessary access passes, visitor permits, security clearances or work permits; (ii) compliance with statutory or regulatory requirements; (iii) the provision of a safe working environment and the necessary utility connections (e.g. electricity, water); and (iv) compliance with the internal safety regulations of the Buyer or relevant third parties. The Buyer shall inform the Supplier in writing of such requirements as soon as possible. Any performance or completion date agreed between the Parties shall be automatically postponed by at least the period required for the Buyer and the Supplier to fulfil all such requirements.
19.3 Where specific training, induction or procedures for the Supplier's personnel are required before they are granted access to the premises where the field work is to be carried out, the Buyer shall, at its own expense, in consultation with the Supplier and subject to the availability of the Supplier's personnel, provide sufficient training and instruction. If the Supplier's Services are delayed for reasons attributable to the Purchaser and the Supplier incurs additional costs as a result, the Purchaser shall compensate the Supplier for all resulting additional costs, including the costs of travel to and from the site and set-up and dismantling.

***20.** APPLICABLE LAW*

20.1 Unless otherwise expressly agreed in writing, the contractual relationship between the Parties shall be governed by the law of the Victoria, Australia. The application of the conflict-of-laws rules of private international law and of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.
20.2 The courts of Victoria, Australia shall have exclusive jurisdiction for all disputes arising out of or in connection with the contractual relationship between the Parties. Each Party irrevocably submits to the jurisdiction of those courts.
20.3
20.4 Nothing in this Clause 20 limits any right the Buyer may have to bring proceedings before a court of competent jurisdiction in Australia to the extent required by mandatory Australian law, including the Australian Consumer Law, and to the extent such right cannot lawfully be excluded, restricted or modified.

***21.** EXPORT CONTROLS AND SANCTIONS*

21.1 The Buyer undertakes to comply with the applicable import and export control laws and sanctions, foreign trade regulations, as well as regulations, orders and requirements in their currently valid versions, including in particular those of the United States of America, the European Union, the United Nations (UN) and the respective jurisdictions in which the Supplier and the Buyer are established or from which goods may be supplied ("Trade Restrictions"), as well as to fulfil the requirements of any relevant licences, authorisations, exemptions, general licences or licence exemptions applicable to the receipt and use of goods, including hardware, software, services and technology.
21.2 The Buyer undertakes to provide the Supplier, upon the Supplier's request (an email is sufficient), with all information regarding the final country of destination of the Contractual Services, their (end) recipients and their intended use without delay.
21.3 The Buyer hereby acknowledges that the performance of the Contractual Obligations may be subject to trade restrictions.
The performance of the Contractual Services by the Supplier is subject to the provision that no trade restrictions prevent their fulfilment. Delays in delivery resulting from export control checks or authorisation procedures required for the performance of the Contract in accordance with trade restrictions shall not be at the Supplier's expense. The agreed delivery and performance deadlines shall be extended by the period during which the Supplier is prevented from performing due to such checks or procedures. To the extent that an obligation of the Supplier or the Buyer arising from or in connection with the Contract is prohibited, restricted or subject to an authorisation that has not been granted by the competent authority under the trade restrictions (**"Sanctioned Obligation**"), neither the Supplier nor the Buyer shall be obliged to fulfil such a Sanctioned Obligation. In the event of a Sanctioned Obligation, either party shall be entitled to terminate the Contract by withdrawal or notice of termination. Claims for damages by the Supplier arising from non-performance

or delayed performance of the relevant Contractual Services are excluded, unless the Supplier has acted with intent or negligence.

21.4 Following the performance of the Contractual Services by the Supplier, the Buyer shall be solely responsible for compliance with the trade restrictions and shall not take any action which (i) might cause the Supplier or any of its affiliated companies to breach the trade restrictions or expose them to the risk of doing so, or (ii) would expose the Supplier to the risk of breaching the trade restrictions.

In particular, the Buyer warrants and represents that the Buyer is not a Sanctioned Party and is not directly or indirectly (including through multiple layers) owned or controlled by a Sanctioned Party. "**Sanctioned** Party" means any natural or legal person, organisation or entity listed on a relevant sanctions list, including, but not limited to, the sanctions lists of the European Union, the UK *Office of Financial Sanctions Implementation (OFSI)* and the *US Office of Foreign Assets Control (OFAC)*.

Furthermore, the Buyer undertakes

(i) not to use, sell, resell, export, re-export, transfer, distribute, dispose of, disclose, make available or otherwise deal with the Contractual Services, either directly or indirectly, without the Supplier's prior consent (email is sufficient), namely

(a) to or for use in any territory where the provision of the Contractual Services would be restricted or prohibited under the Supplier's trade restrictions;

(b) to countries, territories or destinations with which the Supplier does not conduct business for corporate policy reasons; these include Iran, Sudan, Belarus, Russia and North Korea, as well as the regions of Crimea and Sevastopol, Donetsk, Luhansk, Kherson and Zaporizhzhia; and

(c) to a party subject to sanctions under the trade restrictions (or a party directly or indirectly owned or controlled by such a party);

(ii) to obtain and maintain all export licences and other regulatory approvals required under trade restrictions, and to comply with all formalities necessary for the use, sale, resale, export, transfer, delivery, re-export, the provision, transfer, distribution, trading, disposal, disclosure, provision and other handling of the Contractual Services following their provision or performance by the Supplier;

(iii) without the Supplier's prior consent (email is sufficient), not to use the Contractual Services, in whole or in part, (a) for the development, manufacture, handling, operation, the maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons, or the development, manufacture, maintenance or storage of missiles for such weapons, or (b) for any military end-use, if an arms embargo has been imposed on the Buyer's country or the country of destination. Furthermore, the Buyer is prohibited, without the Supplier's prior consent (email is sufficient), from transferring the Contractual Services to third parties if the Buyer knows or has reasonable grounds to suspect that the Contractual Services are intended or may be intended for any of the aforementioned purposes.

21.5 The Buyer undertakes not to sell, export or re-export, either directly or indirectly, Contractual Services provided under or in connection with the Contract which (i) fall within the scope of Article 12g of Regulation (EU) No 833/2014, into or for use in the Russian Federation, or (ii) those falling within the scope of Article 8g of Regulation (EU) No 765/2006, to or for use in Belarus.

21.6 The Buyer undertakes to establish and maintain an appropriate monitoring mechanism to detect conduct by third parties in the downstream supply chain, including any resellers, which is likely to frustrate the purpose of the provisions in this Clause 21. Upon request, the Buyer shall provide the Supplier with adequate evidence of the existence of such a monitoring mechanism.

21.7 (i) The Buyer undertakes to disclose or make available classified information to the Supplier, such as technical data, technology or other data listed in the *U.S. Munitions List*, the *U.S. Commerce Control List* or in the EU export control lists, in particular the Annexes to the Dual-Use Regulation, or in other trade restrictions (**"Classified** Technology"), if (a) the Buyer has given the Supplier reasonable prior written notice of this and has notified the Supplier in writing of the export control classification of such data and technology, (b) the Supplier has given its prior written consent to such disclosure or provision, and (c) the Buyer has clearly marked such data and technology as being subject to trade restrictions.

(ii) If the Buyer discloses or provides Classified Technology to the Supplier in breach of the obligations under Clause 21.7 (i) (**"Unauthorised Disclosure**") and is responsible for such disclosure, the Buyer shall indemnify the Supplier against all damages, losses, costs and expenses incurred by the Supplier arising out of or in connection with the Unauthorised Disclosure. The indemnity obligation shall include, in particular but not limited to, (a) claims for damages by third parties asserted against the Supplier, (b) costs of legal proceedings and defence, including reasonable legal fees, (c) administrative fines or sanctions, insofar as these are attributable to the Unauthorised Disclosure of the Classified Technology, and (d) other direct and indirect damages and expenses incurred by the Supplier as a result of the Unauthorised Disclosure. The Buyer undertakes to inform the Supplier immediately in writing as soon as it becomes aware that an Unauthorised Disclosure has taken place or is imminent (**"Disclosure Obligation**").

(iii) The Supplier shall not be liable for any damage incurred by the Buyer or third parties insofar as such damage is attributable to the Buyer's breach of the Disclosure Obligation. This applies equally to contractual and non-contractual claims. The exclusion of liability shall not apply where the Supplier has caused the damage intentionally or through negligence, or where liability for injury to life, limb or health is

concerned. Furthermore, the exclusion of liability shall not apply where the Supplier has provided a guarantee for the Classified Technology or where claims under the Australian Consumer Law are concerned. Insofar as the Buyer's breach of the Disclosure Obligation was merely a contributing cause of the damage, liability shall be appropriately allocated between the Supplier and the Buyer. In this case, the Buyer shall bear the portion of the damage attributable to its breach of duty.

21.8 Any breach by the Buyer of its obligations under Clause 21 shall constitute a material breach of the Contract and shall entitle the Supplier (i) to terminate the Contract by giving notice of termination or withdrawing from the Contract with the Buyer, and (ii) recover from the Buyer, as damages for the breach, loss actually suffered by the Supplier as a result of the breach. Any amount recovered under Clause 21.8 shall be set off against any other claim for damages arising from the same breach, and the Supplier's right to claim damages in excess of that amount remains unaffected.

21.9 The parties shall notify each other immediately (email is sufficient) if problems arise in complying with the obligations set out in Clause 21, including any relevant activities by third parties. This also applies in the event that trade restrictions should change during the business relationship between the Supplier and the Buyer.

21.10 The Supplier reserves the right to carry out a review of the Buyer prior to the performance of the Contractual Services and during the performance of the Contract, upon prior written notice, and to request information regarding compliance with the aforementioned obligations. The Buyer is obliged to provide the Supplier with the information reasonably requested for this purpose without delay and to assist the Supplier in such reviews in an appropriate manner.