

Purchase Order Terms & Conditions

TERMS AND CONDITIONS

1 Agreement

1.1 The Supplier must supply the Goods and/or Services in accordance with this Agreement.

1.2 This Agreement comprises:
(a) the Purchase Order referring to these Terms and Conditions;
(b) these Terms and Conditions; and
(c) any other document that the Purchase Order expressly states is to apply to the supply of the Goods and/or Services.

1.3 These Terms and Conditions do not apply where there is a current executed contract between the parties for the supply of Goods and/or Services, unless otherwise expressly stated in that contract.

1.4 To the extent of any inconsistency between the documents forming part of this Agreement, a document higher in the list in **clause 1.2** prevails over each lower document.

1.5 Subject to **clause 1.3**, this Agreement supersedes all other arrangements or agreements between Steel Diamond and the Supplier in relation to the Goods and/or Services and is the entire agreement between the parties. This Agreement applies to the supply of the Goods and/or Services to the exclusion of any other conditions, including any contained in any Supplier's quotation, invoice, order acknowledgement, delivery docket, invoice or other document unless agreed in writing referring to this **clause 1.5**.

1.6 The Supplier is taken to have accepted the terms and conditions of this Agreement on the earlier of:
(a) the date the Supplier communicates acceptance of the Purchase Order;
(b) the date Steel Diamond pays, in accordance with this Agreement, any deposit or advance payment with respect to the Goods and/or Services; and
(c) the date the Supplier starts supplying any of the Goods and/or Services.

1.7 This Agreement is non-exclusive and nothing in this Agreement prevents Steel Diamond from appointing, at any time, any other person to supply goods or services that are the same or similar to the Goods and/or Services.

1.8 If Steel Diamond provides the Supplier with any information, specification, data, models, diagrams or documents for the purpose of, or in the course of, the provision of the Goods and/or Services (Steel Diamond Information):

- (a) they remain the property of Steel Diamond and must be returned to Steel Diamond on written demand;
- (b) they must not be used, copied or reproduced for any purpose other than the supply of the Goods and/or Services; and
- (c) unless Steel Diamond specifies in writing that the Supplier can rely upon an item of Steel Diamond information:
 - (i) Steel Diamond Information is provided to the Supplier for the Supplier's convenience;
 - (ii) the Supplier must not rely on it for any purpose; and
 - (iii) Steel Diamond does not warrant, guarantee or make any representation as to Steel Diamond Information, including its

accuracy, completeness or adequacy for the purposes of this Agreement.

1.9 If either party discovers any error in, omission in, inconsistency in or between, ambiguity in or discrepancy in or between any Steel Diamond Information, it must notify the other party without delay

2 Supply of Goods and/or Services

2.1 The Supplier must supply the Goods and/or Services to Steel Diamond at the Delivery Point by the Date for Delivery.

2.2 Unless specified otherwise in the Purchase Order, the supply of Goods and/or Services includes:

- (a) all packing, loading, transport, unloading, unpacking, installing, commissioning and testing; and
- (b) customs and border security clearance and all customs and import costs, duties and taxes.

2.3 The Supplier warrants that:

- (a) the Goods and/or Services will comply with this Agreement;
- (b) at delivery, the Goods will be new (unless stated otherwise in this Agreement) and in good order and condition;
- (c) it will supply the Services diligently and conscientiously;
- (d) it will supply the Goods and/or Services in accordance with Good Industry Practice;
- (e) except to the extent necessary to comply with this Agreement, it and its Personnel will not damage or destroy the property of Steel Diamond or any of its Personnel;
- (f) it will supply the Goods and/or Services in a manner to ensure:
 - (i) no contaminants are discharged onto the Site; and
 - (ii) no pollution occurs, in contravention of any law;
- (g) the Goods and/or Services will comply with the description in this Agreement;
- (h) the Goods will comply with any relevant patterns or specifications in or referred to in this Agreement;
- (i) the Goods and/or Services will be fit for the purpose made known to the Supplier by Steel Diamond or, if none was made known to the Supplier, fit for the purpose for which goods and/or services of that kind are ordinarily used;
- (j) the Goods will have a life expectancy commensurate with what would be expected of similar goods provided for similar purposes by a supplier exercising Good Industry Practice;
- (k) the Goods and/or Services will comply with all applicable Australian standards;
- (l) the Goods and/or Services will comply with the provisions of any legislation applicable to them; and
- (m) subject to **clause 24.1**, title in the Goods and Deliverables passes to Steel Diamond free from all charges, liens and encumbrances.

2.4 The Supplier repeats the warranties in **clause 2.3** immediately prior to each supply of Goods and/or Services under this Agreement.

2.5 The Supplier must at all times provide and continually maintain adequate labour and sufficient Supplier's Plant and Equipment to allow it to complete the supply of the Goods and/or Services in accordance with this Agreement

3 Site Access and Safety

3.1 Steel Diamond grants the Supplier and the Supplier's Personnel a right to access the Site to the extent reasonably required by the Supplier to supply the Goods and/or Services in accordance with this Agreement.

3.2 Nothing in this Agreement confers a right of exclusive possession on the Supplier and it will only be granted access to the Site to the extent Steel Diamond (acting reasonably) considers necessary for the purposes of **clause 3.1**. If Steel Diamond requires (acting reasonably), the Supplier and its Personnel must be accompanied by Steel Diamond's representative at all times when on the Site.

3.3 The Supplier acknowledges that it may have to share access to the Site with Steel Diamond and Steel Diamond's Personnel, and it has taken this into account in agreeing to the Price and Date for Delivery.

3.4 The Supplier must at all times keep the Site, its working areas and any waste, storage and approach areas clean and tidy and must regularly remove rubbish and surplus material.

3.5 If the Supplier or any of the Supplier's Personnel do not comply with any of the requirements of **clause 3.11**, **clause 3.14**, **clause 3.15** or **clause 23**, Steel Diamond may deny the Supplier or the relevant Supplier's Personnel access to the Site and, upon being requested in writing by Steel Diamond, the Supplier must:

- (a) correct the non-compliance promptly; and
- (b) take any necessary steps to avoid it happening again, and the Supplier is not entitled to any extension of time or increase to the Price in connection with such denial of access. As soon as practicable after the Supplier has complied with **clause 3.5(a)** and **clause 3.5(b)**, Steel Diamond must grant the Supplier and the Supplier's Personnel with access to the Site in accordance with **clause 3.1**.

3.6 If the Supplier or any of the Supplier's Personnel do not comply with all applicable laws or Steel Diamond's Policies and Rules while on the Site, Steel Diamond may deny the Supplier or the relevant Supplier's Personnel access to the Site and, upon being requested in writing by Steel Diamond, the Supplier must:

- (a) correct the non-compliance promptly;
- (b) take any necessary steps to avoid it happening again; and
- (c) remove the applicable Supplier's Personnel responsible for the non-compliance from the Site, and the Supplier is not entitled to any extension of time or increase to the Price in connection with such denial of access. As soon as practicable after the Supplier has complied with **clause 3.6(a)**, **clause 3.6(b)** and **clause 3.6(c)**, Steel Diamond must grant the Supplier and the Supplier's Personnel (other than any person removed pursuant to clause 3.6(c)) with access to the Site in accordance with **clause 3.1**.

3.7 If the Supplier or any of the Supplier's Personnel fail to comply with any of its obligations in **clause 3.6** within a reasonable time, without limiting any other right or remedy of Steel Diamond:

- (a) Steel Diamond and Steel Diamond's Personnel may do anything Steel Diamond considers necessary to protect people, property and the environment from harm in connection with the supply of the Goods and/or Services, including removing or relocating any property in the possession or control of the Supplier or the Supplier's Personnel and conducting protective works; and
- (b) the Supplier must reimburse Steel Diamond on demand for any reasonable costs and any losses or damages that arise out of anything done by Steel Diamond or Steel Diamond's Personnel in accordance with **clause 3.7(a)**.

3.8 The Supplier must, in supplying the Goods and/or Services:

- (a) not interfere with the activities of Steel Diamond or Steel Diamond's Personnel at the Site;
- (b) cooperate with and coordinate its activities with Steel Diamond and Steel Diamond's Personnel at the Site; and
- (c) be aware of and comply with, and ensure that the Supplier's Personnel are aware of and comply with, all:

- (i) applicable laws (including the HSE Legislation) and industrial awards and agreements binding on it;
- (ii) Steel Diamond's Policies and Rules; and
- (iii) Steel Diamond's directions authorised by this Agreement.

3.9 Steel Diamond must use reasonable endeavours to ensure that neither Steel Diamond nor Steel Diamond's Personnel impede the Supplier's supply of the Goods and/or Services at the Site.

3.10 The Supplier must ensure that all of the Supplier's Personnel use appropriate personal protective equipment which must comply with the HSE Legislation and Steel Diamond's Policies and Rules.

3.11 If Steel Diamond directs, the Supplier must, within 7 days after the date of this Agreement or other period agreed by the parties, submit to Steel Diamond a proposed health, safety and environment management plan (HSE Management Plan), setting out how the Supplier will manage all health, safety and environmental aspects of the supply of the Goods and/or Services.

3.12 The proposed HSE Management Plan must be prepared in accordance with Good Industry Practice and be consistent with Steel Diamond's Policies and Rules and the HSE Legislation.

3.13 Within 5 business days of receipt of the draft HSE Management Plan, or other period agreed by the parties, Steel Diamond must notify the Supplier that:

- (a) Steel Diamond accepts the proposed HSE Management Plan; or
- (b) Steel Diamond requires the Supplier to make changes to the proposed HSE Management Plan.

If Steel Diamond does not issue the Supplier a notice within the time stipulated under this **clause 3.13**, Steel Diamond is deemed to have issued a notice that it accepts the proposed HSE Management Plan.

3.14 The Supplier must incorporate into the proposed HSE Management Plan any changes Steel Diamond requires provided the changes are reasonably required by Steel Diamond to ensure the HSE Management Plan complies with **clause 3.12** and resubmit the amended proposed HSE Management Plan for acceptance in accordance with **clause 3.13**.

3.15 The Supplier must comply with the accepted HSE Management Plan.

4 Supplier's Workforce

4.1 The Supplier must ensure that all work and services performed in connection with the supply of the Goods and/or Services is carried out by Qualified Personnel.

4.2 Steel Diamond may, to the extent permitted by law and acting reasonably and on reasonable grounds, direct the Supplier to remove any of the Supplier's Personnel from the Site or from the performance of works and services in connection with the supply of the Goods and/or Services. The Supplier must ensure that any of the Supplier's Personnel so removed:

- (a) are not again employed at the Site or in connection with the supply of the Goods and/or Services; and
- (b) are replaced as soon as possible.

4.3 During the period the Supplier is supplying Goods and/or Services under this Agreement and for a period of 6 months afterwards, neither party will, without the other party's prior written consent, directly or indirectly solicit, offer to employ, employ, hire as a contractor, agent or consultant, or otherwise procure services from any of the other party's Personnel. This clause 4.3 does not apply where the relevant Personnel is employed or contracted:

- (a) as a consequence of a genuine advertising or recruitment campaign advertised publicly to a wide range of potential applicants; or
- (b) in response to an unsolicited approach made by the Personnel.

5 Leased Equipment

5.1 This clause 5 applies if, pursuant to this Agreement, the Services include leasing equipment to Steel Diamond (Leased Equipment).

5.2 The Supplier leases the Leased Equipment to Steel Diamond for the duration set out in the Purchase Order (or, if none set out, for the period starting on the date the Leased Equipment is commissioned at the Delivery Point and ending on the date that Steel Diamond notifies the Supplier is the date on which the Supplier can collect the Leased Equipment).

5.3 At Steel Diamond's request, the Supplier must conduct any commissioning of the Leased Equipment or supervise Steel Diamond's commissioning of the Leased Equipment, to Steel Diamond's satisfaction (acting reasonably).

5.4 The Supplier must ensure that when it is commissioned the Leased Equipment is in good, proper and safe working order and complies with all applicable laws (including being licensed in accordance with all applicable laws).

5.5 Unless Steel Diamond otherwise directs, the Supplier must, at its cost, maintain the Leased Equipment in a safe, operable and good working condition and must provide all spare parts and consumable items necessary to facilitate this.

6 Supplier's Plant & Equipment

6.1 The Supplier must ensure that the Supplier's Plant and Equipment:

- (a) is fit for the purposes for which it is used;
- (b) complies with applicable laws and Steel Diamond's Policies and Rules; and
- (c) is maintained in a safe, operable, and good working condition and must provide all spare parts and consumable items necessary to facilitate this.

6.2 Steel Diamond may reject any item of Supplier's Plant and Equipment which it determines (acting reasonably) is unsuitable for the purposes of this Agreement. If any item is so rejected then it must be either repaired or replaced to the reasonable satisfaction of Steel Diamond within 5 days after notification by Steel Diamond.

6.3 The Supplier is responsible for the care of the Supplier's Plant and Equipment at the Site except that Steel Diamond must pay for the repair or replacement of any of the Supplier's Plant and Equipment lost or damaged due to the negligent act or omission of Steel Diamond or any of its employees.

7 Steel Diamond supplied Items & Steel Diamond Equipment

7.1 Steel Diamond Supplied Items remain the property of Steel Diamond.

7.2 Steel Diamond Supplied Items must not be used by the Supplier for any purpose other than fulfilling the Supplier's obligations under this Agreement.

7.3 The Supplier must repair or replace any Steel Diamond Supplied Item damaged due to the negligent or otherwise wrongful act or omission of the Supplier or the Supplier's Personnel.

7.4 The Supplier must use Steel Diamond Supplied Items efficiently and ensure they are not wasted.

7.5 The Supplier must procure that its Personnel do not remove Steel Diamond Supplied Items from the Site.

7.6 The Supplier is responsible for the care of Steel Diamond Equipment when it is in the Supplier's or its Personnel's possession or control except that Steel Diamond is responsible for the repair or replacement of such Steel Diamond Equipment lost or damaged due to the negligent act or omission of Steel Diamond or any of its employees.

8 Inspection, Testing & Information

8.1 Provided Steel Diamond has informed the Supplier of its intention to exercise its rights under this **clause 8.1** a reasonable period in advance of doing so, Steel Diamond may inspect, review, examine and witness tests on the Goods, Services or Deliverables at any time during the supply of the Goods and/or Services.

8.2 Steel Diamond may from time to time request the Supplier to provide it with information and documents relating to the Goods, Services or Deliverables or the Supplier's compliance with this Agreement and the Supplier must comply with any reasonable request as soon as reasonably practicable.

9 Acceptance of Goods and/or Services

9.1 The supply of the Goods and/or Services is not complete until Steel Diamond has accepted the Goods and/or Services.

9.2 Without limiting **clause 11**, for the purposes of this **clause 9**, Steel Diamond must:

- (a) accept or reject Goods and/or Services that have been delivered; and
- (b) give the Supplier written evidence of such acceptance or rejection, within a reasonable time after delivery.

9.3 Steel Diamond's acceptance of the Goods and/or Services entitles the Supplier to issue an invoice pursuant to **clause 12** and:

- (a) is not a waiver of any rights or a representation or admission that the Goods and/or Services have been supplied in accordance with this Agreement; and
- (b) if Steel Diamond signs a delivery slip or other acknowledgement, this will constitute acceptance by Steel Diamond but, unless agreed in writing referring to this **clause 9.3**, will not have the effect of incorporating additional terms into, creating new terms with respect to, varying or waiving any part of this Agreement.

9.4 If the Supplier is or will be delayed in supplying the Goods and/or Services, Steel Diamond may direct the Supplier to accelerate the supply of the Goods and/or Services and take necessary corrective action to overcome or minimise the extent of the delay. Such actions may include increasing the Supplier's workforce, making more Supplier's Plant and Equipment available for the supply of the Goods and/or Services or increasing the number of shifts the Supplier's Personnel are devoting to the supply of the Goods and/or Services.

9.5 Except to the extent that acceleration under **clause 9.4** overcomes a delay for which the Supplier would have been entitled to an increase in the Price pursuant to **clause 19.4**, the Supplier is not entitled to any additional costs it incurs in complying with a direction under **clause 9.4**. Any increase in the Price must be calculated in accordance with **clause 16.4**.

10 Provision of Documents

10.1 The Supplier must provide Steel Diamond with all manufacturer's warranties and guarantees and any other similar documents in relation to workmanship and materials contained in the Goods and/or Services that are specified in the Purchase Order.

10.2 The Supplier must provide Steel Diamond with the certification, manufacture data reports and material safety data sheets and other technical or verification information that are specified in the Purchase Order.

10.3 Compliance with **clause 10.1** and **clause 10.2** is a pre-condition to Steel Diamond's acceptance of the Goods and/or Services

11 Defective Goods and/or Services

11.1 If, at any time, (whether or not a reasonable time has passed for inspection after delivery of the Goods and/or Services)



Steel Diamond discovers that the Goods and/or Services do not comply in any material respect with any warranty given under **clause 2.3** or are otherwise not in accordance with this Agreement, Steel Diamond may (without limiting any other right available to it) deliver to the Supplier a notice under **clause 11.2**.

11.2 The Supplier must, if Steel Diamond so requires by notice in writing, at the cost of the Supplier and within the timeframes Steel Diamond (acting reasonably) specifies:

- (a) in respect of Goods or Deliverables, either:
 - (i) remove some or all of the Goods or Deliverables, rectify the defects in them and return them to Steel Diamond; or
 - (ii) replace some or all of the Goods or Deliverables; and
- (b) in respect of Services, either:
 - (i) rectify some or all of the Services; or
 - (ii) resupply some or all of the Services.

11.3 If Steel Diamond gives the Supplier a notice under **clause 11.2** within a reasonable time of delivery of Goods and/or Services and the Supplier fails to comply with that notice within the timeframes specified, Steel Diamond may return the Goods and/or Deliverables to the Supplier.

11.4 If Steel Diamond exercises its rights under **clause 11.3**, the Supplier must pay Steel Diamond:

- (a) the Price paid by Steel Diamond for the Goods and/or Deliverables returned; and
- (b) any costs reasonably incurred or losses suffered by Steel Diamond due to the delivery or return of those Goods and/or Deliverables

12 Price & Payment

12.1 The Supplier must supply the Goods and/or Services for the Price. The Price is fixed and will not be subject to rise and fall or any other adjustment except as expressly stated in this Agreement.

12.2 Unless specified otherwise in the Purchase Order, on the last business day of each calendar month, the Supplier must deliver to Steel Diamond an invoice for Goods and/or Services accepted under this Agreement in that month or since the last invoice (as applicable).

12.3 Unless specified otherwise in the Purchase Order and subject to **clause 12.4**, Steel Diamond must pay all invoices submitted by the Supplier by the end of the month following the month in which the invoice was received (or any shorter period required by legislation).

12.4 If Steel Diamond disputes the amount payable in an invoice issued pursuant to this **clause 12**, it must pay the undisputed part of the invoice and either party may serve a Dispute Notice pursuant to **clause 29** in respect of the unpaid part.

12.5 The invoice must:

- (a) be in the form of a Tax Invoice;
- (b) set out the Supplier's name, address and Australian Business Number;
- (c) include an adequate description of the Goods and/or Services to which it relates;
- (d) set out the quantity of Goods and/or Services supplied and the Price payable with respect to that quantity;
- (e) include evidence of Steel Diamond's acceptance of the Goods and/or Services to which it relates;
- (f) include a valid Steel Diamond Purchase Order number;
- (g) set out the total invoice amount, including GST; and
- (h) be accompanied by all other documentation and material required by this Agreement or under any law.

12.6 Steel Diamond may deduct from any amount owing to the Supplier under this Agreement, including any part payment of the Price, any amount which is due and payable by the Supplier to Steel Diamond.

12.7 Payment of an invoice is not a waiver of any rights or a representation or admission that the Goods and/or Services comply with this Agreement.

13 GST & other Taxes

13.1 To the extent that a supply made under this Agreement is a taxable supply (as defined in the GST Act), the Supplier may recover from Steel Diamond (provided it has first provided Steel Diamond with a valid Tax Invoice), in addition to the Price, an amount equal to the GST payable in respect of that supply.

13.2 All taxes and duties other than GST levied on or in respect of the Goods and/or Services are deemed to be included in the Price and are payable by the Supplier.

14 Representatives

14.1 Steel Diamond may, by notice to the Supplier, appoint or change a Steel Diamond Representative.

14.2 If a Steel Diamond Representative is appointed, they are responsible for issuing to, and receiving from, the Supplier all notices, information, instructions and decisions under this Agreement.

14.3 Except as expressly stated in this Agreement, the Steel Diamond Representative does not have authority to amend this Agreement, or to relieve the Supplier of any of its obligations under this Agreement.

14.4 If Steel Diamond requests, the Supplier must appoint a Supplier's Representative.

14.5 If a Supplier's Representative is appointed they have the authority to commit the Supplier in all matters under this Agreement and are responsible for issuing to, and receiving from, Steel Diamond all notices, information, instructions and decisions under this Agreement.

15 Intellectual Property

15.1 Steel Diamond remains the owner of the Steel Diamond Background IP. Steel Diamond grants to the Supplier a non-exclusive, non-transferrable, royalty-free, revocable licence (or if the IP is licensed to Steel Diamond, a sublicense) to use the Steel Diamond Background IP for the sole purpose of supplying the Goods and/or Services.

15.2 The Supplier may sublicense the licence granted pursuant to **clause 15.1** to its Subcontractors to the extent strictly necessary for the supply of the Goods and/or Services.

15.3 The Supplier remains the owner of the Supplier Background IP. The Supplier grants to Steel Diamond and Steel Diamond's Personnel a non-exclusive, transferrable, royalty-free, irrevocable, sublicensable and perpetual licence (or if the IP is licensed to the Supplier, a sublicense) to use, adapt, modify or copy all Supplier Background IP to the extent necessary to enjoy the full benefit of the Goods, Services, Deliverables and Agreement IP.

15.4 The Supplier agrees that all Agreement IP will be vested in Steel Diamond and will be Steel Diamond's property as and when created and the Supplier transfers all rights, title and interest in the Agreement IP to Steel Diamond.

15.5 The Supplier must not disclose, reproduce or otherwise deal with the Agreement IP or Steel Diamond's Background IP, or permit anyone else to do so, for any purpose other than supplying the Goods and/or Services.

15.6 The Supplier must obtain all consents from the individual creator to ensure that Steel Diamond can exercise all its rights under this **clause 15** without infringing any Moral Rights.

15.7 The Supplier warrants that:

- (a) it owns, or licences on terms that enable it to comply with this Agreement, all IP in the Supplier's Background IP; and
- (b) the:
 - (i) supply and use of the Goods and/or Services and/or the Deliverables;
 - (ii) Agreement IP and its use, adaptation, modification or copying; and

(iii) the exercise by Steel Diamond or its Personnel of any rights pursuant to the licence granted under **clause 15.3**, will not infringe any person's rights in relation to IP, within or outside of Australia.

15.8 Steel Diamond warrants that:

(a) it owns, or licences on terms that enable it to comply with this Agreement, all IP in the Steel Diamond Background IP; and
(b) the exercise by the Supplier or its Personnel of any rights pursuant to the licence granted under **clause 15.1**, will not infringe any person's rights in relation to IP, within or outside of Australia.

16 Variation Proposal

16.1 Steel Diamond may provide the Supplier with notice of a proposed Variation.

16.2 Within 5 days of receiving notice of a proposed Variation pursuant to **clause 16.1**, or other period as agreed by the parties, the Supplier (at its own cost) must provide Steel Diamond with a response setting out (in accordance with Good Industry Practice):
(a) the changes to the Goods and/or Services that would be required to execute the proposed Variation; and
(b) the impact of the proposed Variation on the Price and the time for supplying the Goods and/or Services, (Proposed Variation Response).

16.3 Steel Diamond may, acting reasonably, direct a Variation the subject of a Proposed Variation Response and such direction may specify that Steel Diamond:

(a) accepts the Proposed Variation Response, in which case the Price and the time for supplying the Goods and/or Services is varied in accordance with the Proposed Variation Response; or
(b) rejects the Proposed Variation Response, in which case the Price will be adjusted in accordance with **clause 16.4** and the time for supplying the Goods and/or Services will be adjusted in accordance with **clause 19.3**.

16.4 If the Variation affects the Price, it must be adjusted to reflect the value of the varied Goods and/or Services, which must be agreed between the parties. Where there is no agreement, the value will be calculated by Steel Diamond using:

(a) where applicable rates and costs are included in this Agreement, by applying those rates and costs; and
(b) where applicable rates and costs are not included in this Agreement, Steel Diamond's assessment (acting reasonably) of a fair and reasonable price for the varied Goods and/or Services.

17 Directions Varying the Goods and/or Services

17.1 If the Supplier considers that a direction given by Steel Diamond, other than a direction under **clause 16.3**, constitutes a Variation that will affect the Price (where the Supplier is entitled to a Price adjustment) or the time for supplying the Goods and/or Services, it must, as soon as practicable and in any event before complying with the direction, notify Steel Diamond, identifying the relevant direction and the estimated impact on the Price and the time for supplying the Goods and/or Services.

17.2 As soon as reasonably practicable after receiving a notice under **clause 17.1**, Steel Diamond must either:

(a) notify the Supplier that it is to proceed to comply with the direction, in which case the Price will be adjusted in accordance with **clause 16.4** and the time for supplying the Goods and/or Services will be adjusted in accordance with **clause 19.3**; or
(b) withdraw the direction.

17.3 Irrespective of whether the Supplier has issued a notice under **clause 17.1**, if a direction results in a reduction in the Price or a reduction in the time for supplying the Goods and/or Services, Steel Diamond may adjust the Price in accordance with **clause 16.4** and adjust the time for supplying the Goods and/or Services in accordance with **clause 19.3**.

17.4 No Variation that Steel Diamond directs invalidates or repudiates this Agreement.

18 Change in law or change in Steel Diamond's Policies & Rules

18.1 The Supplier must notify Steel Diamond within 10 business days of becoming aware of any:

(a) Change in Law; or
(b) Change in Steel Diamond's Policies and Rules, that the Supplier considers is likely to affect the Supplier's supply of the Goods and/or Services. A notice under this **clause 18.1** must include details of the Change in Law or change in Steel Diamond's Policies and Rules and its impact on the supply of the Goods and/or Services.

18.2 To the extent that a Change in Law or change in Steel Diamond's Policies and Rules cause an increase to the costs of the Supplier supplying the Goods and/or Services (other than a trivial increase in cost) or the time at which the Supplier can supply the Goods and/or Services, this will be a Variation and the Price and the Date for Delivery will be adjusted in accordance with **clause 16.4** and **clause 19.3**.

19 Extensions of times

19.1 The Supplier may request, by notice in writing to Steel Diamond, an extension of time for supplying the Goods and/or Services.

19.2 Steel Diamond is only required to grant the Supplier an extension of time for supplying the Goods and/or Services if:

(a) the Supplier has been or will be delayed in supplying the Goods and/or Services by the Date for Delivery because of:
(i) a suspension for which it is entitled to an adjustment to the Price or the time for supplying the Goods and/or Services;
(ii) a breach of this Agreement by Steel Diamond; or
(iii) a Force Majeure Event; and
(b) the Supplier has, within 15 days of the event giving rise to the delay, given Steel Diamond notice identifying the event and the anticipated impact on when the Goods and/or Services will be supplied.

19.3 An extension of time granted pursuant to **clause 19.2** must reflect Steel Diamond's assessment (acting reasonably) of the actual impact of the event on the time for supplying the Goods and/or Services.

19.4 If Steel Diamond grants an extension of time pursuant to **clause 19.2(a)(i)**, the Price is adjusted by adding the verified additional costs the Supplier incurs as a direct consequence of the delay.

19.5 Steel Diamond may at any time, and for any reason and at its sole discretion, by notice to the Supplier, extend the time for supplying the Goods and/or Services.

20 Suspension

20.1 Steel Diamond may from time to time direct the Supplier to suspend the supply of some or all of the Goods and/or Services (Suspension Notice). A Suspension Notice must set out the Goods and/or Services that are suspended and the expected duration of the suspension.

20.2 Steel Diamond must keep any period of suspension to the minimum period Steel Diamond reasonably requires.

20.3 The Supplier must, without delay, comply with a Suspension Notice.

20.4 Steel Diamond may, from time to time, direct the Supplier to recommence the supply of any of the Goods and/or Services suspended pursuant to a Suspension Notice and the Supplier must, without delay, comply with such a direction.

20.5 If a Suspension Notice is directed for a reason other than an act, omission or default by the Supplier, the Supplier will be entitled to claim an adjustment to the Price and the time for supplying the Goods and/or Services in accordance with **clause**

21 Force Majeure

21.1 If a party is prevented from performing an obligation under this Agreement (other than an obligation to pay money it is obliged to pay under this Agreement) by a Force Majeure Event:

(a) it must, as soon as possible, give the other party a notice describing the Force Majeure Event and its effects, including the anticipated period for which it will be prevented from performing that obligation; and

(b) for the period it is prevented from performing that obligation, it is excused from performing (and is not liable for non-performance of) that obligation.

21.2 If a party is prevented from performing an obligation under this Agreement by a Force Majeure Event, it must:

(a) use all reasonable skill and effort to overcome the Force Majeure Event and recommence performance of the affected obligation as soon as possible; and

(b) keep the other party informed of the status of the Force Majeure Event and its efforts to overcome it.

22 Termination

22.1 If Steel Diamond or the Supplier suffers an Insolvency Event, subject to Chapter 5 of the Corporations Act 2001 (Cth), the other party may terminate this Agreement with immediate effect by notice to the insolvent party.

22.2 If the Supplier is in breach of any of its obligations under this Agreement and Steel Diamond has given the Supplier a notice specifying the obligation and requiring the Supplier to rectify the breach with a reasonable period and, within that period, the Supplier has not rectified the breach to Steel Diamond's satisfaction (acting reasonably), Steel Diamond may terminate this Agreement with immediate effect by notice to the Supplier. If Steel Diamond terminates the Agreement under this **clause 22.2**, subject to **clause 25**, Steel Diamond's rights and remedies are the same as they would have been if the Supplier had repudiated this Agreement and Steel Diamond had elected to treat this Agreement as at an end and recover damages.

22.3 The Supplier may terminate this Agreement by giving Steel Diamond 30 days' written notice if Steel Diamond has not paid an amount due and payable pursuant to **clause 12** for a period of 30 days or longer after the amount became due and payable.

22.4 Steel Diamond may terminate this Agreement at any time for any reason by giving the Supplier 30 days' written notice. Subject to any rights of set off or deduction that Steel Diamond may have, following termination pursuant to this **clause 22.4**, Steel Diamond's only obligation (and sole liability resulting from such termination) is to pay the Supplier for:

(a) the Goods and/or Services which have been supplied in accordance with this Agreement prior to the date of termination (and not included in any other payment to the Supplier);

(b) the costs of goods and materials:

(i) reasonably ordered for the supply of the Goods and/or Services;

(ii) for which the Supplier is bound to pay;

(iii) that the Supplier cannot otherwise utilise in the ordinary course of its business;

(iv) the cost of which is not included in the amount payable pursuant to **clause 22.4(a)**; and

(v) upon payment, free and clear title to the goods and materials will vest in Steel Diamond;

(c) the Supplier's reasonable and verified demobilisation costs;

(d) the reasonable costs to the Supplier of complying with Steel Diamond's directions on or after termination; and

(e) an additional amount of 5% of the amounts in **clause 22.4(b)**, **clause 22.4(c)** and **clause 22.4(d)** on account of profit and overheads.

22.5 After the expiry or termination of this Agreement, the Supplier must:

(a) take all reasonable actions, or such actions as Steel Diamond directs (acting reasonably), for the transfer, protection and delivery to Steel Diamond of any Steel Diamond Supplied Items, Goods, Deliverables or any other property of Steel Diamond;

(b) use all reasonable endeavours to minimise the cost to Steel Diamond of termination;

(c) except to the extent Steel Diamond directs, immediately stop using all Steel Diamond Supplied Items and Steel Diamond Information; and

(d) if Steel Diamond directs, return to Steel Diamond or destroy all copies in any form of the Steel Diamond Information in the possession or control of the Supplier or any of the Supplier's Personnel, however the Supplier may retain Steel Diamond Information to the extent required by law.

23 Insurance

23.1 The Supplier must effect and maintain the following insurance policies with reputable insurers:

(a) from the date of this Agreement until acceptance of the Goods in accordance with this Agreement, insurance of the Goods against all risks of loss or damage for their full replacement value;

(b) during any period the Supplier is supplying the Goods and/or Services, public and products liability insurance with a limit of \$20,000,000 in respect of any one claim and unlimited as to the number of claims;

(c) during any period the Supplier is supplying the Goods and/or Services, motor vehicle third party property insurance with a limit of \$10,000,000 for any one occurrence and unlimited as to the number of occurrences;

(d) during any period the Supplier is supplying the Goods and/or Services, where the Supplier is providing professional services, professional indemnity insurance:

(i) with a limit of \$5,000,000 in relation to any one claim and in the aggregate; and

(ii) with a run-off cover for a period ending 7 years after the Goods and/or Services were supplied; and

(e) any other insurance required by law.

23.2 The Supplier is not entitled to submit an invoice with respect to any Goods and/or Services unless it is compliant with its obligations under **clause 23.1**.

23.3 The Supplier must provide Steel Diamond with details of the insurance, verifying compliance with the requirements of **clause 23.1**, within 2 days of any request from Steel Diamond.

23.4 The Supplier must ensure that any Subcontractor of the Supplier effects and maintains insurances similar to those set out in **clause 23.1**.

23.5 If the Supplier fails to effect and maintain, or ensure that its Subcontractors effect and maintain, the insurance required pursuant to **clause 23.1**, without limiting its other rights under this Agreement, Steel Diamond may effect and maintain the relevant insurance and the costs reasonably and properly incurred by Steel Diamond in doing so will be a debt due and payable by the Supplier to Steel Diamond.

23.6 If Steel Diamond requests, the Supplier must promptly make and pursue a claim under its insurance policies where:

(a) liability, loss or damage has occurred and is covered under any of the Supplier's insurance policies (Loss or Damage);

(b) there are reasonable prospects of the claim succeeding; and

(c) some or all of the proceeds from a successful claim could be applied towards any Loss or Damage, however, this clause does not apply in circumstances where the Supplier is ready, willing and able to pay for the Loss or Damage on its own account.

24 Title & Risk

24.1 Unless specified otherwise in the Purchase Order:

(a) property and title in Goods and Deliverables passes to Steel Diamond on the first to occur of payment of the whole of the Price for the Goods or Deliverables and acceptance of the Goods or Deliverables in accordance with this Agreement; and

(b) subject to **clause 24.2**, risk in the Goods and Deliverables passes to Steel Diamond on acceptance of those Goods or Deliverables in accordance with this Agreement.

24.2 If Steel Diamond has accepted the Goods or Deliverables in accordance with this Agreement but they remain in the Supplier's custody (such as in the Supplier's warehouse), risk in those Goods or Deliverables passes to Steel Diamond when Steel Diamond takes custody of those Goods or Deliverables.



24.3 All redundant or waste goods, materials, equipment and the like removed from any facility, equipment or structure on the Site in the course of or in connection with the provision of the Goods and/or Services (Salvage) remain the property of Steel Diamond. The Supplier must dispose of any Salvage at its own cost, unless Steel Diamond elects to keep any of it.

25 Liability & Indemnity

25.1 Subject to **clause 25.2**, neither party is liable to the other for Consequential Loss.

25.2 **Clause 25.1** will not apply to relieve or limit the Supplier's liability:

- (a) under its indemnity obligations under **clause 25.4(a)**, **clause 25.4(b)** or **clause 25.4(c)**;
- (b) caused by the Supplier's fraudulent or wilful misconduct; and
- (c) to the extent the Supplier is insured and the Supplier is entitled to be indemnified for the relevant liability under and insurance policy effected in accordance with this Agreement or would have been so insured and indemnified but for:
 - (i) the application of **clause 25.1**; or
 - (ii) any act or omission of the Supplier.

25.3 **Clause 25.1** will not apply to relieve or limit Steel Diamond's liability:

- (a) under its indemnity obligations under **clause 25.5(a)** or **25.5(b)**; and
- (b) caused by Steel Diamond's fraudulent or wilful misconduct.

25.4 The Supplier indemnifies Steel Diamond from and against any cost, loss, claim, damages or liability:

- (a) arising out of the personal injury or death of any person to the extent caused by the Supplier or any of the Supplier's Personnel;
- (b) for pollution and contamination caused by the Supplier or the Supplier's Personnel;
- (c) caused by a breach of **clause 15.7**;
- (d) any claim made against Steel Diamond by any of the Supplier's Personnel in respect of any legislation concerning income tax, workers' compensation, annual leave, long service leave or superannuation or any applicable award, determination or agreement of any competent industrial tribunal; and
- (e) for any statutory penalty imposed on Steel Diamond because of the Supplier's breach of this Agreement.

25.5 Steel Diamond indemnifies the Supplier from and against any cost, loss, claim, damages or liability:

- (a) arising out of the personal injury or death of any person to the extent caused by Steel Diamond or any of its employees;
- (b) caused by a breach of **clause 15.8**; and
- (c) for any statutory penalty imposed on the Supplier because of Steel Diamond's or any of Steel Diamond's Personnel's breach of this Agreement.

25.6 If, pursuant to this Agreement, a party (Indemnifying Party) is liable to indemnify the other party (Indemnified Party), the Indemnified Party must use reasonable endeavours to mitigate the amount the Indemnifying Party is required to indemnify.

26 Confidentiality

(a) Neither party may make any media or other announcement or releases relating to this Agreement or the Site without the other party's prior written approval of the form, content and manner of the announcement or release, except to the extent that the announcement or release is required to be made by a party by any applicable law, government authority or by a stock exchange.

(b) Each party must keep confidential, and not use or disclose, any of the other party's Confidential Information, except (subject to **clause 27**):

- (i) to the extent necessary for the performance of their obligations under this Agreement;
- (ii) that a party may disclose Confidential Information to its legal and other advisers;
- (iii) to the extent necessary to resolve any genuine Dispute;
- (iv) that a party may disclose Confidential Information to a genuine prospective purchaser of the party or its business

provided such prospective purchaser is bound by obligations of confidentiality no less onerous than this **clause 26(b)**; and (v) that a party may disclose Confidential Information if required by any applicable law (including any order of a court of competent jurisdiction) or the rules of any stock exchange.

(c) Each Party must ensure that any of its Personnel who receive Confidential Information do not disclose that Confidential Information and each party is liable for breaches of confidentiality by its Personnel.

27 Data Protection

(a) Each party warrants to the other that it will comply with all applicable laws relating to the Processing of Personal Data collected by, or disclosed to, it pursuant to this Agreement.

(b) The Supplier must not engage any Subcontractor to Process Steel Diamond Personal Data without Steel Diamond's prior written consent (which must not be unreasonably withheld).

(c) If there is any situation involving loss or destruction of, unauthorised disclosure of, or access to, Steel Diamond Personal Data (or an imminent risk that any of these things might occur), the Supplier must:

- (i) immediately report the situation to Steel Diamond
- (ii) to the extent practicable, mitigate any harmful effect of such disclosure or access; and
- (iii) cooperate with Steel Diamond in responding to and investigating the situation.

(d) After the expiry or termination of this Agreement:

- (i) if Steel Diamond directs, the Supplier must return, destroy or dispose of any Steel Diamond Personal Data at its own cost; and
- (ii) if the Supplier directs, Steel Diamond must return, destroy or dispose of any Supplier Personal Data at its own cost, however, each party may retain Personal Data to the extent required by law.

28 Assignment & Subcontracting

28.1 The Supplier must not assign this Agreement without Steel Diamond's prior written consent (which must not be unreasonably withheld) and any purported assignment in breach of this **clause 28.1** is void.

28.2 Steel Diamond can assign this Agreement without the Supplier's consent provided the assignee has the financial and technical capabilities to fulfil Steel Diamond's obligations under this Agreement.

28.3 The Supplier must not subcontract the performance of any of its obligations under this Agreement without Steel Diamond's prior written consent (which must not be unreasonably withheld).

29 Dispute Resolution

29.1 If a Dispute arises between the parties, either party may serve a notice on the other setting out the issuing party's position in respect of the Dispute and requiring Steel Diamond's Representative and the Supplier's Representative to meet to try to resolve it (Dispute Notice).

29.2 Steel Diamond's Representative and the Supplier's Representative must meet within 7 days of receiving a Dispute Notice and endeavour in good faith to resolve the Dispute.

29.3 If a Dispute has not been resolved within 30 days after the Dispute Notice was served, either party may commence legal proceedings to resolve the Dispute.

29.4 If for any reason there is no Steel Diamond's Representative or Supplier's Representative, Steel Diamond or the Supplier (as applicable) may nominate a senior manager to undertake the role and obligations of Steel Diamond's Representative or Supplier's Representative (as applicable) under this **clause 29**.

29.5 Notwithstanding the existence of a Dispute, the Supplier must continue to supply the Goods and/or Services in accordance with this Agreement.

29.6 Nothing in this **clause 29** prevents a party from commencing legal proceedings seeking urgent interlocutory relief.

30 Notices

30.1 Any notice given under or in connection with this Agreement:

- (a) must be in writing;
- (b) must be addressed to the relevant address in this Agreement or last communicated in writing to the person giving the notice;
- (c) must be posted by pre-paid mail, delivered by hand to the address of the addressee or emailed to the relevant email address with the notice attached in PDF format; and
- (d) shall be deemed to have been given and received:
 - (i) (in the case of post) 5 business days after posting;
 - (ii) (in the case of delivery by hand) on delivery; and
 - (iii) (in the case of email) when the email is delivered to the server of the recipient party, but if the notice is taken to be received on a day that is not a business day or after 5.00 pm in that place, it is taken to be received at 9.00 am on the next business day in the place of receipt.

30.2 A notice takes effect from the time it is received unless a later time is specified in it.

31 Business Integrity

31.1 Each party must procure that its Personnel and any other person acting for or on its behalf, do not:

- (a) give anything of value (which is not properly due) to the other party or its Personnel that is contrary to fair dealing; or
- (b) provide or offer a benefit (which is not properly due) to a public official (within or outside Australia) in order to retain or obtain an improper advantage.

31.2 Each party represents and warrants to the other that neither it nor any of its Personnel:

- (a) is or will become a Restricted Party; or
- (b) has violated or will violate any Sanctions.

31.3 Each party must:

- (a) comply with all applicable laws in relation to Modern Slavery (as defined in the Modern Slavery Act 2018 (Cth));
- (b) take reasonable steps to ensure there is no Modern Slavery in its supply chains; and
- (c) notify the other party as soon as it becomes aware of any actual or suspected Modern Slavery in any supply chain that has a connection with this Agreement.

31.4 Each party must implement processes and procedures designed to ensure compliance with this **clause 31**.

31.5 The Supplier must maintain records in a reasonable level of detail concerning the steps it has taken in compliance with **clause 31** and, upon Steel Diamond's request, make these records available to Steel Diamond together with such other information as Steel Diamond requests in order for Steel Diamond to assess the Supplier's compliance with this **clause 31** and in order to comply with the law.

31.6 If the Supplier becomes aware of any potential or actual breach of this **clause 31**, it must immediately notify Steel Diamond and provide Steel Diamond with all necessary assistance in investigating that breach.

32 Miscellaneous

32.1 This Agreement can only be amended by written agreement signed by the parties.

32.2 The Supplier is liable for the acts and omissions of its Personnel performing works and services in connection with the supply of the Goods and/or Services as if such acts and omission were acts and omissions of the Supplier.

32.3 No test, review (or failure to review), approval, statement of satisfaction or comment by or on behalf of Steel Diamond with respect to the Goods and/or Services including any acceptance of a proposed HSE Management Plan:

- (a) constitutes a direction by Steel Diamond; or
- (b) waives or varies any of the Supplier's obligations under this Agreement.

32.4 All obligations to indemnify under this Agreement are independent and survive termination of this Agreement.

32.5 Each party's remedies under this Agreement are without prejudice to any other remedies under this Agreement or any remedies available under any applicable law.

32.6 This Agreement is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

32.7 Where the Supplier is required under this Agreement to perform an obligation, matter or thing, or discharge a liability, the Supplier must do so at its own cost, unless expressly provided otherwise.

32.8 The Supplier is an independent contractor and nothing in this Agreement creates any agency, joint venture, partnership or employer and employee relationship between the parties.

32.9 No waiver by a party of a breach of this Agreement by the other party constitutes a waiver for any subsequent or continuing breach by that party.

32.10 All provisions of this Agreement which, expressly or by implication from their nature, are intended to survive termination or expiry of this Agreement, will survive such termination or expiry, including any provisions relating to:

- (a) confidentiality;
- (b) IP;
- (c) any indemnity; and
- (d) any right or obligation arising on termination of this Agreement.

32.11 This Agreement is governed by the laws of the State or Territory in which the Delivery Point is situated and the parties submit to the jurisdiction of the courts of that State or Territory and any courts which have jurisdiction to hear appeals from any of those courts.

32.12 The operation of the Vienna Convention on Contracts for the International Sale of Goods 1980 and the Sale of Goods (Vienna Convention) Act 1986 (WA) is excluded in relation to all matters in connection with this Agreement.

32.13 If any of the provisions of this Agreement are held by a court of competent jurisdiction to be invalid or otherwise unenforceable that provision may be severed from the Agreement and the remainder of this Agreement will continue to be effective and valid notwithstanding such severance.

33 Definitions & Interpretation

33.1 In this Agreement:

Agreement IP means IP created, discovered or coming into existence as a result of performing this Agreement but does not include the Supplier's Background IP.

Change in Law means any change in an applicable law occurring after the Date of this Agreement which was not reasonably foreseeable at the Date of this Agreement.

Confidential Information means the terms of this Agreement and all information exchanged between the parties in connection with this Agreement (including all Personal Data but excluding information that is or becomes public knowledge other than as a result of a breach of this Agreement).

Consequential Loss means any unforeseeable, indirect or consequential loss and includes (whether such loss is foreseeable, direct or consequential) any:

- (a) loss of revenue and profit (other than revenue or profit attributable to the supply of the Goods and/or Services in accordance with this Agreement);
- (b) loss of goodwill;
- (c) loss of reputation or adverse publicity; or
- (d) financing costs.



Date for Delivery means the date set out in the Purchase Order or, if none, a reasonable time after the date of this Agreement.

Date of this Agreement means the date the Supplier is taken to have accepted the terms and conditions of this Agreement pursuant to **clause 1.6**.

Deliverables means all data, plans, drawings, software, specifications, procedures, reports, documents and other information prepared by the Supplier and to be delivered to Steel Diamond as part of the Services.

Delivery Point means the location identified in the Purchase Order where the Supplier is to supply the Goods and/or Services or, if none identified, the location Steel Diamond nominates (acting reasonably).

Dispute means a dispute or difference between the parties in connection with this Agreement.

Force Majeure Event means any event or circumstance beyond the reasonable control of the party affected by it and that could not have been avoided or overcome using all reasonable skill and effort to do so.

Good Industry Practice means performance:
(a) as would ordinarily be expected of a Relevant Supplier;
(b) in a manner which is:
(i) efficient, professional and cost effective; and
(ii) safe to the environment; and
(c) by Qualified Personnel using high quality, safe and appropriate equipment, tools and procedures and adopting high industry standards.

Goods means the goods, if any, referred to in this Agreement and includes all goods described in this Agreement, all manuals, spare parts and operating instructions Steel Diamond needs for the proper use of the Goods and all things that can be reasonably inferred from the description of the Goods in this Agreement.

GST has the meaning given in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

HSE Legislation means all relevant legislation relating to health and safety on the Site or in connection with the supply of the Goods and/or Services and any regulations, codes of practice or safety standards made under any of that legislation.

Insolvency Event means the occurrence of any one or more of the following events with respect to a party:
a. a meeting has been convened, resolution proposed, petition presented or order made for the winding up of the party;
b. a receiver, receiver and manager, provisional liquidator, liquidator, or other officer of the court, or other person of similar function has been appointed regarding all or any material asset of the party;
c. a security holder, mortgagee or chargee has taken, attempted or indicated an intention to exercise its rights under any security of which the party is the security provider, mortgagor or chargor; or
d. an event has taken place with respect to the party which would make, or deem it to be, insolvent under any laws applicable to it.

IP means all intellectual and industrial property rights, including trademarks, copyright, inventions, patents, designs, circuits and other eligible layouts, database rights and other intellectual property rights.

Leased Equipment has the meaning given in **clause 5.1**.

Moral Rights has the meaning given in the *Copyright Act 1968* (Cth).

Other Contractor means any contractor at any level engaged by Steel Diamond or a member of the Steel Diamond Group to perform activities at the Site (but excluding the Supplier and the Supplier's Personnel).

Personnel means:

(a) in relation to Steel Diamond:

(i) Steel Diamond's Related Bodies Corporate, its Other Contractors and its employees, officers, agents and consultants; and

(ii) all Related Bodies Corporate, employees, officers, agents and consultants of Steel Diamond's Related Bodies Corporate, Other Contractors, agents and consultants;

(b) in relation to the Supplier:

(i) the Supplier's Related Bodies Corporate, its Subcontractors and its employees, officers, agents and consultants; and

(ii) all Related Bodies Corporate, employees, officers, agents and consultants of the Supplier's Related Bodies Corporate, Subcontractors, agents and consultants.

Personal Data means any information relating to an identified and identifiable natural person.

Price means, with respect to Goods and/or Services, the price for those Goods and/or Services set out in the Purchase Order.

Process means any operation or set of operations performed on Personal Data, including collection, recording, use, disclosure, transfer, access, storage, hosting, alteration, erasure or destruction.

Purchase Order means the purchase order, setting out the details of the Goods and/or Services and referring to these Terms and Conditions.

Qualified Personnel means personnel who are fit for work and suitably qualified, trained (including trained in respect of health and safety) and experienced to undertake and carry out the work they are allocated.

Related Body Corporate has the meaning given in the *Corporations Act 2001* (Cth).

Relevant Supplier means a supplier that exercises the degree of skill, quality, care, diligence and prudence that would reasonably be expected of a competent and experienced supplier undertaking the supply of goods and/or services and obligations similar to the supply of the Goods and/or Services under this Agreement.

Services means the services, if any, referred to in this Agreement and includes the preparation and delivery of the Deliverables and any good, document or activity necessary or incidental to the performance of the Services.

Site means any site Steel Diamond makes available to the Supplier for the purpose of supplying the Goods and/or Services.

Steel Diamond means the member or members of Steel Diamond Pty Ltd identified in the Purchase Order.

Steel Diamond Equipment means any item of equipment owned by Steel Diamond that is to be serviced, repaired or modified as part of the Services.

Steel Diamond Information has the meaning given in **clause 1.9**.

Steel Diamond Personal Data means Personal Data provided by or on behalf of Steel Diamond to the Supplier or any of its Personnel.

Steel Diamond Supplied Items means the plant, equipment, infrastructure, facilities, utilities and other items that Steel Diamond supplies to the Supplier as set out in this Agreement and otherwise made available to the Supplier by Steel Diamond for the purposes of the supply of the Goods and/or Services but excludes the Steel Diamond Equipment.

Steel Diamond's Background IP means any IP owned by or licensed to Steel Diamond (including any licence granted by another member of the Steel Diamond Group) and which was in existence at the Date of this Agreement.



Steel Diamond's Policies and Rules means Steel Diamond's policies, standards and rules of conduct and operation applicable to the supply of the Goods and/or Services or the Site, as updated from time to time and available on request by the Supplier.

Steel Diamond's Representative means the person appointed as Steel Diamond's Representative pursuant to clause 14. **Subcontractor means** a subcontractor at any level engaged by the Supplier or another Subcontractor to perform part of the supply of the Goods and/or Services.

Supplier Personal Data means Personal Data provided by or behalf of the Supplier to Steel Diamond or any of its Personnel.

Supplier's Background IP means any IP owned by or licensed to the Supplier (including any licence granted by a Related Body Corporate of the Supplier) and which:

was in existence at the Date of this Agreement; came into existence after the Date of this Agreement, other than in connection with the supply of the Goods and/or Services or this Agreement; or has been developed by the Supplier for general use in the Supplier's business and not specifically developed for the purpose of supplying the Goods and/or Services.

Supplier's Plant and Equipment means all plant, equipment, tools, appliances or other property required by the Supplier to fulfil its obligations under this Agreement (and includes any Leased Equipment but excludes any Steel Diamond Supplied Items).

Supplier's Representative means the person appointed as the Supplier's Representative pursuant to clause 14.

Tax Invoice means a tax invoice for the purposes of the GST Act.

Variation means any change to the Goods and/or Services, including any modification, alteration, variation, addition, omission of, to or from the Goods and/or Services.

Ethical and Responsible Sourcing Statement

Purpose: This Ethical and Responsible Sourcing Statement is an integral part of the Purchase Order Terms & Conditions of Steel Diamond. It outlines our commitment to sourcing goods and services ethically and responsibly, and it serves as a guideline for our suppliers and vendors to adhere to our ethical standards.

- a. **Compliance with Ethical Standards:** Suppliers and vendors are expected to comply with all applicable laws, regulations, and international standards related to labour rights, human rights, environmental protection, and business ethics.
- b. **Respect for Human Rights:** Suppliers and vendors must respect and uphold the fundamental human rights of workers involved in the production of goods and services, as defined by international conventions and standards.
- c. **Fair Labour Practices:** Suppliers and vendors are required to provide fair wages, safe working conditions, and reasonable working hours for all employees, in accordance with applicable labour laws and regulations.

Suppliers and vendors must prohibit the use of forced labour, child labour, and any form of involuntary or exploitative labour practices.

- d. **Environmental Responsibility:** Suppliers and vendors are encouraged to minimize their environmental impact by adopting sustainable practices, reducing waste, conserving natural resources, and mitigating pollution.

Suppliers and vendors should strive to comply with environmental regulations and standards relevant to their operations.

- e. **Transparency and Accountability:** Suppliers and vendors are expected to provide transparency into their sourcing practices, including the origins of raw materials and components used in the production process.

Suppliers and vendors must maintain accurate records and documentation related to their sourcing activities, which may be related to ethical sourcing promptly to Steel Diamond.

- f. **Ethical Business Conduct:** Suppliers and vendors must conduct their business with integrity, honesty, and transparency, and they must refrain from engaging in bribery, corruption, or any unethical business practices.

Suppliers and vendors should report any concerns or violations subject to audit or inspection by Steel Diamond.

- g. **Continuous Improvement:** Suppliers and vendors are encouraged to continuously improve their sourcing practices by implementing ethical sourcing policies, engaging with stakeholders, and seeking opportunities for collaboration and innovation.

- h. **Compliance Monitoring and Remediation:** Steel Diamond reserves the right to monitor and assess suppliers' and vendors' compliance with this Ethical and Responsible Sourcing Statement.

Non-compliance with these terms may result in corrective action, including but not limited to contract termination, suspension of orders, or other appropriate measures.

Conclusion: By accepting a purchase order from Steel Diamond, suppliers and vendors acknowledge their commitment to upholding the principles outlined in this Ethical and Responsible Sourcing Statement. Together, we strive to promote ethical sourcing practices, protect human rights, and contribute to a more sustainable and responsible global supply chain.

