Terms and Conditions

1 Formation of Agreement

(a) These Terms and Conditions apply to any Services set out in an Estimate provided to the Client.

(b) By:

(1) issuing a Purchase Order to Mader in acceptance of an Estimate; or

(2) Mader performing any Services at the Client's request before a Purchase Order has been issued,

the Client is deemed to have entered in this Agreement and accepted these Terms and Conditions.

(c) The documents which comprise this Agreement are, in order of precedence:

(1) these Terms and Conditions;

(2) the Application for Commercial Credit, if any;

(3) the accepted Estimate; and

(4) any other schedules or attachments attached to the Estimate.

(d) Each Estimate, along with the documents specified in clause 1(c), will form a separate Agreement between Mader and the Client that:

(1) begins on the date the Client issues a Purchase Order or Mader performs any Services in accordance with clause 1(b); and

(2) continues for the term or duration specified in the Estimate (**Term**).

(e) Mader may vary these Terms and Conditions by giving the Client 1 months' notice in writing.

2 Mader Personnel and Services

2.1 Performance of the Services

(a) Mader will provide the Mader Personnel to perform the Services as specified in the Estimate, provided that if Mader has notified the Client that:

(b) the Client must be approved for commercial credit; or

(c) the Client must procure a guarantee and indemnity,

(d) then Mader will not be required to provide the Mader Personnel or perform any Services unless and until the Client provides an Application for Commercial Credit or Guarantee and Indemnity, or both, (as the case may be) in a form acceptable to Mader.

(e) Any date or dates for the provision of, or access to, any Services specified in the Estimate are estimates only. Mader:

(1) will use its best endeavours to provide the Mader Personnel and Services by those dates; and

(2) will not be liable for any delay in providing the Mader Personnel or the Services, or other non-performance of the Services, other than as directly caused by a breach of this Agreement by Mader.

2.2 Standards of Service

Mader will provide the Services in accordance with all Laws and will ensure that Mader Personnel have the necessary skills, training and required qualifications to perform the Services.

2.3 Subcontractors

(a) Mader may provide the Services itself or through a subcontractor.

(b) If Mader uses a subcontractor to provide the Services, the Client must provide to the subcontractor the same assistance, information, access, rights and benefits (other than payment of any money) that it is required to grant to Mader in connection with the Services.

3 Client responsibilities – Mader Personnel

(a) The Client warrants that it is entitled to grant Mader Personnel access to the Site.

(b) Unless otherwise specified in an Estimate, the Client must at its own expense adequately supervise the Mader Personnel at all times and ensure that the Mader Personnel:

(1) have access to the Site and other resources as are reasonably necessary to perform the obligations under this Agreement; and

(2) have access to a Client representative at the relevant Site to liaise with as necessary to support Mader in performing its obligations under this Agreement.

(c) The Client is responsible for providing at its own expense a safe workplace and safe systems of work for all Mader Personnel and must:

(1) comply with, and must ensure its personnel and Mader Personnel comply with, all Laws, including Work Health and Safety Laws that are applicable or relevant to the Site (including providing all appropriate personal protection equipment and safety inductions) (**WHS Requirements**);

(2) promptly, and in any event not less than 5 Business Days prior to any requirement for Mader Personnel to enter the Site, notify Mader of entry conditions, any induction procedures and any other requirements of the Site so as to enable Mader to perform its obligations under this Agreement;

(3) provide the Mader Personnel entering into the Site all appropriate safety inductions including in relation to WHS Requirements relating to the Site and general workplace health and safety matters;

(4) ensure that any direction given to any Mader Personnel can be carried out safely and in compliance with the WHS Requirements;

(5) provide Mader, promptly upon request, with any information required to enable Mader to confirm the provision of a safe and healthy work environment to Mader Personnel and meet any duties that the Mader has under applicable WHS Requirements; and

(6) promptly advise Mader of any workplace incidents involving Mader Personnel.

(d) If, in Mader's reasonable opinion, the Client has not provided a safe workplace and safe systems of work for provision of the Services in accordance with clause 3(c) Mader may:

(1) suspend or refuse to perform part or all of the affected Services without liability; and

(2) invoice the Client, and the Client must pay, the reasonable costs and expenses resulting from the suspension or non-performance of the Services.

(e) The Client acknowledges that:

(1) The Client must comply with all of its obligations under this Agreement at its own expense; and

(2) Mader will not be required to pay any amount to the Client or a third party as a condition of providing the Services.

4 Payment

4.1 Reimbursable Expenses

The Client must pay to Mader in respect of any Reimbursable Expenses:

(a) the actual costs of the Reimbursable Expenses incurred by Mader; plus

(b) an additional margin of 10%.

4.2 Payment

(a) Mader will submit to the Client, within 7 days after the end of each month, an itemized tax invoice showing the value of the Services provided by Mader to the Client from the beginning to the end of the previous month plus any other Reimbursable Expenses (**Invoice**).

(b) The Client must pay Mader the amount specified in an Invoice on or before the date specified in the Invoice.

(c) Where an Invoice does not specify the due date for payment, the Client must pay Mader the amount stated in the Invoice within 30 days from the Invoice date or by the last Business Day of the month in which the Invoice is received, whichever is earlier.

(d) If the due date for the payment of an Invoice falls on a day which is not a Business Day, payment for the Invoice will be due and payable on the previous Business Day.

(e) If the Client disputes the whole or any portion of the amount claimed in an Invoice submitted by Mader, the Client shall pay that portion of the amount stated in the Invoice which is not in dispute by the due date for payment (as determined in accordance with clauses 4.2(b) and 4.2(c) above) and the Client shall within 10 Business Days of receipt of such Invoice notify Mader in writing of the reasons for disputing the Invoice.

(f) All payments must be made to the account and in such manner as Mader may from time to time require. If a payment is dishonoured, or Mader has not actually received the payment, the payment is taken not to have been made.

(g) Payments must be made in full, without any deduction, withholding or set-off. This is so even if any Plant and Equipment is lost, stolen, destroyed or in need of repair.

(h) If the Client does not pay an amount payable under this Agreement when it is due (including enforcement expenses), Mader may charge the Client interest on that amount from the due date until the amount is paid, calculated at an interest rate of 20% per annum accruing on a daily basis.

4.3 Changes to Fees

(a) Mader may adjust the Fees to take account of any change to any fees and charges or any new fees and charges incurred by Mader.

(b) The Client will be given 20 Business Days' notice of any change under clause 4.3(a), with such changes becoming effective at the end of that notice period.

5 Goods and Services Tax

(a) Any reference in this clause 5 to words which have a defined meaning in the GST Law have the same meaning as in the GST Law unless the context otherwise indicates.

(b) Unless otherwise indicated, fees or other similar amounts referred to in this Agreement do not include GST.

(c) To the extent that any supply made under or in connection with this Agreement is a taxable supply, the consideration for that supply is increased by an amount equal to the amount of that consideration multiplied by the rate at which GST is imposed in respect of the supply.

(d) If either party is entitled under this Agreement to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this Agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense to the extent to which an input tax credit may be claimed by the party entitled to be reimbursed or indemnified, or by its representative member.

6 Security Interest

(a) The Client acknowledges that Mader may register one or more financing statements in relation to any Security Interest provided for by this Agreement. If permitted by the PPSA, the Client waives its rights under section 157 of the PPSA to receive notice of any verification statement relating to the registration of any such financing statement or any related financing change statement.

(b) Unless agreed to by Mader in writing, the Client acknowledges that Mader has not agreed to subordinate any Security Interest provided for by this Agreement in favour of any third party.

(c) Nothing in this Agreement may be taken as an agreement that any Security Interest provided for by this Agreement attaches later than the time contemplated by section 19(2) of the PPSA.

7 The Client's warranties

(a) The Client warrants to Mader that:

(1) all information which the Client has given to Mader is correct and not misleading;

(2) the Client has not relied on any representations made by Mader in deciding to enter into this Agreement; and

(3) the Client is authorised to enter into this Agreement and in doing so it is not in breach of any authorisations or regulations affecting or controlling the Client or its business.

8 Insurance

8.1 Client responsibility

(a) The Client must at its own expense procure and, at all times during the Term, maintain with a reputable insurer the following policies of insurance:

(1) worker's compensation (including occupational disease where required by law) and employer's indemnity insurance, which comply with the relevant Laws applicable to the Site where the Services are being performed; and

(2) public and product liability insurance with a sum insured, respectively, of not less than $20 million, for each occurrence, and in the aggregate in respect of product liability only, for all claims arising in the same insurance period.

(b) The Client must, on request, provide Mader with evidence of insurance, pay all premiums and permit Mader to receive all insurance money payable in respect of the Plant and Equipment.

(c) If Mader is not reasonably satisfied that the Client has adequately insured the Plant and Equipment, Mader may take out such insurance as Mader considers appropriate and the Client must reimburse Mader for its costs of doing this on demand.

(d) The Client must not do or fail to do anything which would:

(1) result in any insurance claim being refused or not met in full; or

(2) vary any insurance in any material respect, enforce, conduct, settle or compromise any insurance claim without Mader's written consent.

(e) The Client must notify Mader immediately of any circumstances which may entitle a claim to be made under any insurance.

(f) The Client must forward to Mader any proceeds or any payment of any entitlement sent to the Client under any insurance, unless Mader otherwise agrees in writing. Any

such amount may be applied by Mader towards the repair or replacement of the Plant and Equipment or the reduction of the Client's liability to Mader, at Mader's discretion.

9 Plant and Equipment

9.1 Application

(a) If Mader is to provide any Plant and Equipment as specified in the Estimate, the Client agrees to the terms of this clause 9.

9.2 Delivery

(a) Mader will:

(1) supply the Plant and Equipment to the Client at the Site; and

(2) if applicable, exercise reasonable endeavours to deliver the Plant and Equipment to the Site on the date specified in the Estimate.

9.3 Acceptance

(a) Upon Mader delivering the Plant and Equipment to the Site in accordance with clause 9.1, the Client must accept delivery of the Plant and Equipment and satisfy itself as to the identity, condition and merchantable quality of the Plant and Equipment.

9.4 Title and risk

(a) The Plant and Equipment is at the Client's risk from the time of acceptance under clause 9.3 until the Plant and Equipment is returned to Mader in accordance with this Agreement.

(b) Title in the Plant and Equipment at all times remains with Mader.

9.5 No dealing

(a) The Client must not sell, part with possession or otherwise dispose of, lease or licence the Plant and Equipment or give anyone any Security Interest in or other rights over the Plant and Equipment.

(b) The Client acknowledges that any disposal or dealing in breach of this Agreement is not authorised by Mader and that Mader's Security Interest continues in the Plant and Equipment despite the disposal or dealing.

(c) The Client must not make any alteration or addition to the Plant and Equipment which may adversely affect its value nor alter any identifying number or mark on the Plant and Equipment. Any addition to the Plant and Equipment will become part of the Plant and Equipment which is the subject of Mader's Security Interest.

(d) The Client must not deface or conceal any identifying nameplates, words, markings or numbers, on the Plant and Equipment and the Client must upon request affix to the Plant and Equipment a readily visible plate or sign that identifies Mader's interest in the relevant Plant and Equipment.

(e) The Client must not without Mader's prior written consent allow the Plant and Equipment to become affixed to any other item (including land) in which a person other than Mader has a Security Interest.

(f) The Client must ensure that no lien of any nature arises in respect of the Plant and Equipment.

9.6 Other Client responsibilities

(a) The Client must keep the Plant and Equipment secure from theft and damage and not do or allow anything to be done which is likely to jeopardise their safety, condition or value.

(b) The Client must notify Mader immediately if the Plant and Equipment is lost, stolen or damaged or the Client parts with possession of the Plant and Equipment.

(c) The Client must not remove the Plant and Equipment from the relevant Site without Mader's consent in writing.

(d) The Client must ensure that the Plant and Equipment is only used:

(1) for the purpose for which it was designed;

(2) by persons with proper qualifications and experience;

(3) in accordance with this Agreement and any manufacturer instructions or manuals notified by Mader; and

(4) in accordance with any applicable Laws,

and must:

(5) comply with all Laws relating to the Plant and Equipment or the use, operations, storage, possession or licensing of the Plant and Equipment; and

(6) if applicable, operate, service, maintain and store the Plant and Equipment in good condition and repair, and in accordance with the manufacturer's specifications and recommendations and to Mader's satisfaction; and

(e) The Client must ensure that:

(1) Mader has access to the Plant and Equipment; or

(2) if the Client is not an occupier of premises where the Plant and Equipment is located, the Client procures that Mader has access to the Plant and Equipment,

(3) at any time, in order to exercise any of Mader's rights, including in respect of a Default Event, to repair, inspect or test the Plant and Equipment or otherwise check whether the Client has complied with its obligations under this Agreement. Without limiting any other term of these Term and Conditions, the Client authorises Mader to enter any premises where the Plant and Equipment is located for these purposes. Mader will give the Client reasonable notice before doing so, unless Mader considers that it must act quickly in order to protect Mader's interest in the Plant and Equipment.

(f) Upon the termination or expiry of this Agreement, Mader is entitled to possession of the Plant and Equipment and the Client must immediately return the Plant and Equipment to the place specified by Mader.

(g) If the Plant and Equipment is not returned to Mader when the Client is required to do so, the Client must pay Mader an amount equal to one day's proportion of the relevant Fees for each day until the Plant and Equipment is delivered to Mader (as calculated by Mader, acting reasonably). If the Plant and Equipment is not thereafter returned to Mader within a reasonable time (determined by Mader in its sole discretion), Mader may declare the Plant and Equipment to be lost and the Client must pay Mader the then current market value for the Plant and Equipment (as notified by Mader) as well as any other money which the Client owes to Mader.

9.7 Insurance

(a) Without limiting the Client's other insurance obligations under this Agreement, if Mader is to provide any Plant and Equipment as specified in the Estimate, the Client must maintain at all times during the Term (and at any time the Plant and Equipment is still in the Client's possession but owned by Mader) comprehensive insurance for:

(1) injury or damage arising out of the Client's use or possession of the Plant and Equipment; and

(2) loss or damage to the Plant and Equipment for all risks for their then current market value (as notified by Mader).

10 Privacy

(a) The Client acknowledges and agrees that credit and other personal information provided to Mader will be collected, used, handled and disclosed in accordance with Mader's Privacy Policy and its Credit Reporting Policy. Mader's Privacy Policy and Credit Reporting Policy are available on

its website at https://www.madergroup.com.au/privacy-policy and upon request to Mader.

(b) Mader's website may be hosted, or some data (which may constitute credit or other personal information collected under these terms) may be stored (or both) in cloud infrastructure which may be located outside of Australia. All personal information and credit information derived from Australia will still be treated in accordance with Mader Privacy Policy or with equivalent security measures whilst being stored overseas.

(c) In accordance with Mader's policies including where applicable its privacy policy, the Client agrees that Mader may use, or disclose information to its suppliers and to third parties, for the purpose of providing the Services and Plant and Equipment; providing information about the Services and Plant and Equipment; sending information about Mader and/or Mader's services; performing administrative and marketing operations; complying with legislative and regulatory requirements or as otherwise permitted or authorised by law; considering any other application the Client makes to Mader; managing Mader's rights and obligations in relation to external payment systems, e.g. credit card schemes and debit payment schemes; conducting market research or satisfaction research; and developing and identifying products and services that may interest the Client.

11 Force Majeure

If a Force Majeure Event prevents or delays Mader from performing an obligation under this Agreement, that obligation is suspended as long as the Force Majeure Event continues.

12 Default Events

A Default Event occurs if:

(a) the Client fails to pay any Fees or other invoiced amounts when due and does not remedy the failure to pay within 5 Business Days (or such other period specified in the notice) after the receipt of a notice from Mader specifying the failure to pay;

(b) the Client defaults in complying with any of its obligations under clause 8 (Insurance);

(c) the Client purports to assign or in any way deal with the Plant and Equipment or any of its rights under this Agreement;

(d) anything occurs which prejudices or puts in jeopardy Mader's rights to its Security Interest in the Plant and Equipment or Mader's ability to recover the Plant and Equipment;

(e) the Plant and Equipment is lost or destroyed or Mader forms the opinion that they are so damaged as to make their repair uneconomical;

(f) without limiting subclauses (a) to (e) above, the Client breaches this Agreement and the breach is not remedied within 14 days of Mader giving the Client notice of the breach;

(g) without limiting subclause (f) above, the Client breaches its obligations under 3(c), for the avoidance of doubt whether such breach is remediable or not;

(h) an Insolvency Event occurs in relation to the Client, or a guarantor of any of the Client's obligations under this Agreement;

(i) the holder of any security given at any time over any of the Client's assets becomes entitled to exercise any powers arising on default pursuant to that security or otherwise to take action to enforce the security;

(j) the Client or any of its Related Bodies Corporate default in relation to any other agreement with Mader; or

(k) any person claims any rights or takes any action in respect of the Plant and Equipment.

13 Mader's rights upon Default Event

13.1 Termination

(a) If a Default Event occurs:

(1) the Client will be deemed to have repudiated this Agreement and Mader will then be entitled to terminate this Agreement by:

(A) written notice to the Client;

(B) removing any Mader Personnel from Site; or

(C) taking possession or attempting to take possession of the Plant and Equipment.

(2) Mader does not have to give the Client written notice of termination if Mader considers that Mader Personnel, the Plant and Equipment or Mader's rights upon termination may be adversely affected if Mader does not immediately remove Mader Personnel from Site or take possession of the Plant and Equipment; and

(3) Mader may:

(A) place a stop on any credit facilities which may have been extended to the Client; and

(B) exercise such rights as are afforded to Mader under the PPSA.

(b) Upon termination of this Agreement by Mader under clause 13.1(a), the Client is immediately liable to pay to Mader, without need for any prior demand, by way of liquidated damages arising both from the Default Event and from the early termination of this Agreement, the Early Termination Fee, together with any other amounts payable under this Agreement.

13.2 Early Termination Fee

(a) The Early Termination Fee which is payable by the Client under clause 13.1(b) is the total of the following amounts:

(1) any Fees and any other money then due for payment but which is unpaid as at the date of termination; plus

(2) for all shifts that have commenced, or are due to commence within 48 hours of the termination, the sum of all Fees which, but for the termination, would have been payable by the Client under this Agreement had those shifts been completed; plus

(3) any demobilisation Fees specified in the Estimate, or if none are specified, Mader's expenses actually incurred in demobilisation of the Mader Personnel from the Site; plus

(4) Mader's expenses actually incurred in repossessing the Plant and Equipment, which includes any expenses incurred in attempting to repossess the Plant and Equipment and satisfying any lien claimed over them, whether justifiable or not, as well as any legal expenses paid by Mader on a solicitor and client basis in relation to the repossession.

(b) Mader agrees to provide upon written request by the Client such information as the Client reasonably requests in relation to the calculation of the Early Termination Fee or any other amount payable by the Client under this Agreement.

14 Costs, expenses and indemnities

(a) The Client must indemnify Mader on demand for all costs and expenses, including collection and legal costs (on an indemnity basis), which Mader incurs in exercising any of its rights under this Agreement, including any amounts actually incurred by Mader in, or in connection with:

(1) any loss or damage to the Plant and Equipment that occurs while the Plant and Equipment is in the Client's possession (howsoever caused);

(2) remedying any breach of the Client's obligations under this Agreement;

(3) bringing legal proceedings against the Client or otherwise to protect Mader's rights under this Agreement or over the Plant and Equipment;

(4) recovering amounts owing under this Agreement;

(5) taking possession of, storing and preserving the Plant and Equipment;

(6) Mader doing anything the Client should do under this Agreement but did not;

(7) any claim or demand made by any third party in relation to the Services, the Plant and Equipment or its use; or

(8) any damage to property or death of, or injury to, any person (including Mader Personnel and any claim by Mader Personnel) suffered or sustained in connection with the Services or the Plant and Equipment or its use.

(b) The indemnity by the Client under clause 14(a) does not extend to loss or damage suffered or incurred by Mader as a result of the fraud, wilful misconduct or negligent acts or omissions of Mader or Mader's agents or employees.

(c) Mader agrees, upon written request by the Client, to provide to the Client in reasonable detail the calculation of any amount claimed and payable by the Client under this clause 14.

(d) The Client must pay, or reimburse Mader for, all Taxes and other government charges which are payable by Mader or the Client and which in any way relate to this Agreement, and Mader may, by giving notice to the Client in accordance with clause 4.3(b), vary the Fees by the amount of any variation in any such Taxes and other government charges.

15 Implied warranties and limitation of liability

(a) Mader acknowledges that, in some circumstances, the Client may have rights under the *Competition and Consumer Act 2010* (Cth) including the Australian Consumer Law or other laws which cannot be excluded, modified or restricted (**Consumer Rights**). The Consumer Rights may relate to conditions, warranties, undertakings and guarantees (including the Consumer Guarantees) which apply in relation to this Agreement.

(b) To the extent that it is not lawful or possible to exclude conditions, warranties or rights implied or given in respect of this Agreement, Mader's liability for any breach of such Consumer Rights will (but only to the extent allowed by law) be limited (at Mader's option):

(1) in the case of goods supplied, to the replacement or repair of the goods or the supply of equivalent goods, the payment of the cost of repairing or replacing the goods or of acquiring equivalent goods; and

(2) in the case of services supplied, to the supplying of the services again or the payment of the cost of having the services supplied again.

(c) All other implied conditions, warranties and rights, together with any implied by custom or other circumstances, are excluded.

(d) Subject to the provisions of clause 15(b) and despite any implication arising from any other clause in this Agreement, Mader's liability in connection with this Agreement, however arising other than liability dealt with under clauses 15(b) is limited to the aggregate Fees paid by the Client in the 12 months preceding the events giving rise to the Client's claim against Mader that results in such liability.

(e) Neither party shall be liable to the other for consequential, loss of business, profits, opportunity, reputation or goodwill, exemplary, punitive, collateral, incidental or other forms of special damages or consequential loss.

16 No Solicitation

(a) The Client must not, and must ensure that its Related Bodies Corporate do not, without the prior written consent of Mader:

(1) solicit, entice away or attempt to entice away any Mader Personnel or other employee of Mader either on behalf of the Client or any of its Related Bodies Corporate or any other person; or

(2) engage or employ any person within 12 months of the person ceasing to be engaged or employed by Mader.

(b) If the Client engages or employs any person in breach of clause 16(a), Mader may invoice the Client, and the Client must pay to Mader, at Mader's current hourly rate to that applicable person's role, the hours such person has been engaged or employed by the Client for the first 3 months of such employment or engagement.

(c) This clause 16 in no way limits or prevents the Client from making an offer of employment to any person who has responded to a job advertisement without individual solicitation by the Client.

17 General

17.1 Interpretation

In this Agreement, unless the context requires otherwise:

(a) headings are for convenience only and do not affect the interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa;

(c) a reference to any thing (including, but not limited to, any right) includes a part of that thing;

(d) a reference to a right includes a power, authority, discretion, benefit or remedy conferred on a party by this Agreement or any applicable Law;

(e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;

(f) a reference to a clause, party or schedule is a reference to a clause of, and a party and schedule to, this Agreement and a reference to this Agreement includes an attachment and schedule;

(g) specifying anything after the words 'include' or 'for example' or similar expressions does not limit what else is included;

(h) a reference to a statute or regulation includes all statutes or regulations, amending, consolidating or replacing it and a reference to a statute includes all regulations issued under that statute;

(i) a reference to a party to a document includes that party's successors and permitted assigns;

(j) no rule of construction applies to the disadvantage of a party solely because that party was responsible for the preparation of this Agreement or any part of it; and

(k) a promise or agreement by two or more persons binds them jointly and severally.

17.2 Notices

Any notice or other communication to or by a party to this Agreement must comply with the requirements of this clause 17.2, be legible, in English and addressed as specified in the Estimate or, if applicable, to the alternative address details notified by a party in writing, and:

(a) a notice is regarded as being given by the sender and received by the addressee:

(1) if delivered in person, when delivered to the addressee;

(2) if by post, 2 Business Days from the date of posting; and

(3) if by email, upon receipt of an acknowledgement (in any form) from the recipient that the email was received;

(b) if the delivery or receipt of any notice is on a day which is not a Business Day or is after 4.00pm (addressee's time), it is regarded as received on the following Business Day; and

(c) a notice must not be sent by email if it is a notice in relation to the breach or termination of this Agreement.

17.3 Governing Law and jurisdiction

This Agreement is governed by the Laws of Western Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of Western Australia and the Commonwealth of Australia.

17.4 Entire agreement

This Agreement replaces all previous agreements in respect of its subject matter and contains the entire agreement between the parties.

17.5 Further assurances

Each party must do all things and execute all further documents as reasonably required by the other party to give full effect to this Agreement.

17.6 Relationship of parties

This Agreement does not:

(a) constitute a partnership or a joint venture between the parties;

(b) authorise a party to act or hold itself out as an agent or representative of the other party, or assume or create any obligations on behalf of the other party; or

(c) constitute an employer and employee relationship between the parties or between a party and any subcontractor or personnel of the other party.

17.7 Costs and expenses

Each party must pay its own costs and expenses in respect of the negotiation, preparation, execution and delivery of this Agreement.

17.8 Prohibition and enforceability

(a) Any provision of, or the application of any provision of, this Agreement or any right of a party under this Agreement which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.

(b) Where a clause in this Agreement is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this Agreement.

17.9 Waivers

The waiver of any right, power, authority or discretion related to, or remedy arising on a breach of, this Agreement must be in writing and signed by the party granting the waiver.

17.10 Variation

A variation of any term of this Agreement must be in writing and executed by the parties.

17.11 Cumulative rights

The rights of the parties arising out of or under this Agreement are cumulative and do not exclude any other rights of the parties.

17.12 Assignment

Mader may assign, transfer, novate, mortgage, encumber, charge, grant a security over or otherwise dispose of its rights and obligations under or in connection with this Agreement without the Client's consent. The Client must not do any of these things without Mader's prior written consent.

17.13 Survival of obligations

Clauses 7, 13 to 18 and any other obligations which are expressed to or, by their nature, survive expiry or termination of this Agreement, will survive expiry or termination of this Agreement and are enforceable at any time at law or in equity.

18 Definitions

In this document:

Agreement means this agreement as specified in clause 1(c);

Application for Commercial Credit means an application for commercial credit executed by the Client in the form provided by Mader;

Business Day is a week day on which banks are open for business in Perth, Western Australia;

Claims includes any claim, action, suit, proceeding, application or demand of any kind;

Default Event means any of the events described in clause 12;

Early Termination Fee has the meaning given in clause 13.2(a);

Estimate means an estimate issued by Mader to the Client, setting out the details of the Services and any Plant and Equipment to be provided by Mader to the Client;

Fees means the fees payable by the Client to Mader in respect of the Mader Personnel, Services and any Plant and Equipment as specified in the Estimate;

Financing statement has the meaning given in the PPSA;

Force Majeure Event means:

(a) an act of God;

(b) pandemic, epidemic or other health emergency, including the response of any Governmental Agency;

(c) war, revolution or any other unlawful act against public order or authority;

(d) an industrial dispute;

(e) a governmental restraint; or

(f) any other event which is not within the reasonable control of Mader;

Guarantee and Indemnity means the guarantee and indemnity executed by the Client's guarantor in the form provided by Mader;

Governmental Agency means any governmental, semi-government, administrative, fiscal, municipal, local, judicial or regulatory agency, department, instrumentality, body, utility, authority, commission, court or tribunal;

GST Law means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

Insolvency Event means in relation to the Client:

(a) the Client becomes insolvent or is otherwise unable to pay its debts as and when they fall due;

(b) proceedings are commenced to appoint an external administrator or liquidator to the Client;

(c) the Client is placed under official management or administration;

(d) the Client is presumed to be insolvent under the *Corporations Act 2001* (Cth) following statutory demand; or

(e) circumstances occur which indicate the Client's inability to pay the Fees, as determined by Mader in its sole discretion;

Invoice has the meaning given to that term in Clause 4.2.

Law means the following in force from time to time:

(a) statutes, regulations, by-laws, ordinances and subordinate legislation; and

(b) any approval, authorisation, consent, exception, license, permit, determination, certificate or registration of or from any Governmental Agency including any renewal, variation or modification;

Mader means Mader Group Limited (ACN 159 340 397) or a Related Bodies Corporate as specified in the Estimate;

Mader Personnel means a person employed or contracted by Mader to assist in the provision of the Services;

Plant and Equipment means the Plant and Equipment specified in the Estimate (if any) and includes any part of them together with any substitute or replacement of them, all replacement and spare parts, and additions and accessories fixed to the Plant and Equipment, or any substitute or replacement of all or part of them;

PPSA means the Personal Property Securities Act 2009 (Cth);

Reimbursable Expenses means any expenses incurred by Mader in the provision the Service which the Client must reimburse, as specified in the Estimate or otherwise agreed by the parties;

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

Security Interest has the meaning given to that term in the PPSA;

Services means the Services to be provided by Mader to the Client as expressly set out in the relevant Estimate;

Site means each of the sites specified in the Estimate or as otherwise agreed between the Client and Mader;

Statement of Condition means a statement setting out the condition of the Plant and Equipment at the time of inspection by both parties, as agreed in writing by both parties;

Tax includes any tax, duty, charge or rate imposed or assessed under any legislation or by any Governmental Agency, together with any associated interest, penalty, fine, fee or other charge;

Term has the meaning given in clause 1(d)(2);

Terms and Conditions means these terms and conditions;

Work Health and Safety Laws means all work health and safety related acts and regulations (including any Law enacted with the aim of harmonising work health and safety legislation between the states), in respect of the location where any part of the Work is performed.