

Terms and Conditions

PARTIES:

K. & A. Laird (W.A.) Pty Ltd (ACN 008 395 168) (**Laird**); and

The entity deemed to be or noted to the purchaser of Goods from Laird (**Purchaser**)

RECITALS

- A. The Purchaser wishes to buy from Laird the Goods.
- B. Laird, on the basis of and in reliance of the Purchaser making payment in full of the Price in accordance with the terms of this Agreement, shall supply the Goods to the Purchaser.
- C. The Order, together with these terms and conditions (collectively, Supply Order Documents) constitute the entire terms of the Agreement upon which Laird will supply the Goods.
- D. The Parties enter into this Agreement to evidence their acceptance of the terms and conditions of the Parties obligations and liabilities in the due performance and supply of the Goods.

OPERATIVE PART – The Parties agree as follows:

1. DEFINITIONS

1.1 In this Agreement the following terms have the following meanings:

- (a) **Agreement** means and includes these terms and conditions and any and all Orders;
- (b) **Claim** means any and all liabilities, losses, damages, costs, expenses, debts, notices, judgments, awards, petitions, allegations, actions, proceedings, penalties, or other like claims made under any cause of action or by any person or entity including a third party;
- (c) **Collection Date** means the date specified in the Order;
- (d) **Collection Place** means the location where the Purchaser is to collect the Goods from;
- (e) **Damage** means any physical loss or damage caused to or by the Goods including as a result of impact, misuse, mishandling, faulty operation, operating in abnormal conditions, negligence by the Purchaser's operators, incorrect or neglected use on the part of the Purchaser or where the Goods or part of the Goods fail prematurely due to faulty operation, use, installation or maintenance by the Purchaser;
- (f) **Delivery Date** means the date specified in the Order;
- (g) **Delivery Place** means the location where the Goods are to be delivered as specified in the Order;
- (h) **Goods** means the goods described in any Order (including all attachments, accessories, tools and supporting documentation) which include but are not limited to:
 - (i) certified API ERW steel pipe/casing;
 - (ii) uPVC pipe/casing;
 - (iii) Value-added casing solutions (slotted, threaded, coupled) in steel & PVC;
 - (iv) stainless steel casing;
 - (v) stainless steel screens;
 - (vi) steel & uPVC adaptors;
 - (vii) steel & uPVC fittings; and
 - (viii) other related materials / products.
- (i) **GST Act** means the *A New Tax System (Goods and Goods Tax) Act 1999* (Cth);
- (j) **Grantor** means the Purchaser;
- (k) **Force Majeure Event** means any event which prevents a Party from performing, or delays the performance of, any of its obligations under this Agreement including (without limitation):
 - (i) forces of nature, any act of God, fire, storm or explosion;
 - (ii) any strike, lockout, industrial action, war, sabotage, riot, act of terrorism, any denial of service attack, insurrection, civil commotion, national emergency (whether in fact or in law), power shortage, epidemic, pandemic, quarantine, radiation or radioactive contamination;
 - (iii) any action or inaction by any organ of government or government agency; or
 - (iv) a change in any Law including any new Law,

provided the event or circumstance:

- (i) is not caused by an act or omission of the affected party;
 - (ii) is beyond the reasonable control of the affected party; and
 - (iii) the effects of which could not have been prevented or overcome by the exercise of reasonable care by the affected party;
- (l) **Insolvency Event** includes an event where a party becomes unable to pay its debts when they are due, a receiver or receiver and manager is appointed over any of a party's property or assets, an administrator, liquidator or provisional liquidator is appointed to a party, a party enters into any

arrangement with its creditors, a party is wound up or becomes bankrupt, or any other analogous event or circumstance occurs under the laws of any jurisdiction;

- (m) **Insurance** means the following insurances:
- (ix) contractor's plant & equipment insurance covering any plant and equipment of Laird or a Third Party Provider in the care, custody, and control of the Purchaser for no less than its market value at the time of the loss;
 - (x) workers' compensation insurance in accordance with legislation; and
 - (xi) product liability insurance for not less than \$20,000,000 in respect of each occurrence or any lesser amount as agreed between the parties; and
 - (xii) public liability insurance with a limit of liability not less than A\$20,000,000, per occurrence and unlimited in the aggregate or any lesser amount as agreed between the parties; and
 - (xiii) any other insurance as required by Law;
- (n) **Law** means a statute, ordinance, code, regulation, by-law, local law, official directive, order, instrument, undertaking, obligation or applicable judicial administrative or regulatory decree, judgment or order and includes the conditions and standards, authorisations, licences, permits, consents, assurances bonds or similar requirements including all applicable standards and obligations under the common law and at any time means the Law at that time;
- (o) **Non PPSA Property** means property:
- (i) which is not personal property as defined in the PPSA; or
 - (ii) to which the PPSA does not apply;
- (p) **Order** means an order, written request or any combination of documentation, including but not limited to, email correspondence between the parties, for the supply or provisions of Goods by Laird to the Purchaser;
- (q) **Party** means a party to this Agreement and **Parties** has a corresponding meaning;
- (r) **PPSA** means the *Personal Property Securities Act 2009* (Cth);
- (s) **PPSR** means the Personal Property Securities Register;
- (t) **Price** means the rates or fee payable by the Purchaser to Laird in exchange for Goods provided by Laird to the Purchaser under this Agreement to be specified in an Order;
- (u) **Secured Money** means all money that the Grantor (whether alone or with another person) is or at any time may become actually or contingently liable to pay to or for the account of the Secured Party (whether alone or with another person) for any reason under or in connection with this Agreement. It includes money by way of principal, interest, fees, costs, indemnities, guarantees, charges, duties or expenses or payment of liquidated or unliquidated damages for which the Grantor is or at any time may become liable under or in connection with this Agreement, or as a result of a breach of or default under or in connection with this Agreement. Where the Grantor would have been liable but for its Insolvency, it will be taken to remain liable;
- (v) **Secured Party** means Laird;
- (w) **Security Interest** has the meaning given to the term 'security interest' in the PPSA;
- (x) **Serial Numbered Collateral** means any item of personal property that may or must be described by serial number in a registration on the PPSR;
- (y) **Term** means the period from the Commencement Date to the Termination Date (if any);
- (z) **Termination Date** means the date on which this agreement is terminated in accordance with clause 12; and
- (aa) **Third Party Provider** means any entity which is or was a supplier of Goods or other services to Laird.

2. INTERPRETATION

In this Agreement, unless the context otherwise requires:

- (a) headings, clause headings and underlining have been inserted for guidance only and shall not be deemed to form any part of the context of this Agreement;
- (b) alternative grammatical forms of defined words or expressions have corresponding meanings;
- (c) words denoting the singular number include the plural and vice versa and words denoting a given gender include all genders;
- (d) the expression "person" includes an individual, body corporate, a business or an unincorporated association;
- (e) the words "including" or "includes" means "including, but not limited" or "includes, without limitation" respectively;

- (f) an agreement includes any undertaking, representation, Agreement, agreement or legally enforceable arrangement or understanding whether written or not;
- (g) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (h) a reference to a recital, clause or schedule is to a recital, clause or schedule of or to this Agreement;
- (i) a reference to any Agreement or document is to that Agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (j) a reference to “dollars” or “\$” is to Australian currency;
- (k) this Agreement binds each party’s legal personal representatives, successors and lawful assignees;
- (l) when an act must be done under this Agreement on a day which is not a Business Day, that act shall be done on the next Business Day; and
- (a) when a party comprises two or more persons the rights and obligations of such persons pursuant to this Agreement inure to the benefit of and bind all of them jointly and each of them severally.

3. AGREEMENT

- 3.1 This document constitutes a binding agreement between the Parties specified in the Orders, and remains in force at all times during the Term.
- 3.2 This Agreement will apply to all Goods supplied by Laird to the Purchaser.
- 3.3 The Purchaser may accept this Agreement by:
 - (a) signing an Order;
 - (b) making any prepayment or paying a deposit;
 - (c) communicating acceptance of an Order;
 - (d) instructing Laird to supply Goods; or
 - (e) doing anything else consistent with permitting, or requesting Laird to supply the Goods.
- 3.4 The Purchaser acknowledges and agrees that this Agreement is binding between the parties notwithstanding that any schedule to this Agreement may not be completed or signed.
- 3.5 To the extent of any inconsistency between this Agreement and any other document relating to the supply of Goods from Laird to the Purchaser, the terms of this Agreement shall prevail.

4. SUPPLY OF GOODS

- 4.1 Laird owns the Goods or has access to the Goods from Third Party Providers relevant to the construction, mining, fabrication, piling and engineering industries including, but not limited to, the following products:
 - (f) pipe and casing solutions;
 - (g) stainless steel screens; and
 - (h) steel and uPVC adaptors and fittings.
- 4.2 From time to time during the Term, the Purchaser may submit a written request to Laird requesting that Laird supply Goods to it. Nothing in this Agreement creates an obligation on the part of Laird to supply any Goods to the Purchaser.
- 4.3 Any variations to the Order must be made in writing and shall be subject to acceptance by Laird at its absolute discretion.

5. ACCESS AND DELIVERY/COLLECTION

5.1 Delivery

- (a) The Purchaser will allow Laird access to the Delivery Place as reasonably required for Laird to deliver the Goods. Any failure by the Purchaser to provide access to Laird in accordance with this clause 5.1 may be deemed to be a breach of this Agreement.
- (b) The Goods shall be delivered to the Delivery Place on the Delivery Date as specified in the Order or collected from the Collection Location during Laird’s usual working hours, unless otherwise agreed by the Parties in writing.
- (c) If Laird is required to work outside its usual working hours or days due to any act or omission of the Purchaser, then the Purchaser must promptly reimburse Laird for its costs incurred in arising out of or in connection with having to work those extra hours.
- (d) The Purchaser shall ensure that there is present at delivery a representative of it who or which is capable of receiving, and with full authority to receive, delivery of the Goods and any directions given by Laird or Laird’s representative.

5.2 **COLLECTION FROM THIRD PARTY PROVIDER**

- (a) The Purchaser acknowledges that from time to time, the Purchaser may be required to collect the Goods from a Third Party Provider and that such collection shall be subject to the third party's usual working hours and conditions.

6. Representations and warranties

6.1 The Goods are provided on an "as-is" basis and it is the sole responsibility of the Purchaser to determine that the Goods ordered are:

- (a) adequate for the purposes intended;
(b) safe for the use for which it is intended;
(c) in good working order and without Damage or defect; and
(d) suitable in all material respects.

6.2 Laird warrants to the Purchaser that it:

- (a) has the right to supply the Goods to the Purchaser; and
(b) if the Goods are not owned by Laird, that Laird is authorised to supply the Goods to the Purchaser; but otherwise Laird makes no representation or warranty in respect of the condition or suitability of the Goods for the Purchaser's purpose.

6.3 The Purchaser acknowledges and agrees that:

- (a) Laird is not the manufacturer of the Goods;
(b) no guarantee, condition, warranty or representation of any kind has been or is given or made by Laird, its directors, employees, agents or representatives with respect to or in connection with the Goods; and
(c) all other conditions, warranties or representations, express or implied, statutory or otherwise, as to the state, quality, description or otherwise of the Goods or as to its fitness for any purpose are excluded to the extent permitted by Law.

7. RISK AND TITLE

7.1 Unencumbered title to the Goods passes to the Purchaser on the later of payment of the Rates or Delivery in accordance with this Agreement and in any event, only when the Price has been paid in full.

7.2 Risk of loss or damage to the Goods shall transfer to the Purchaser once the Goods have been:

- (a) delivered to the Delivery Location; or
(b) collected by the Purchaser from the Collection Location;
and the Purchaser shall obtain appropriate insurance for the Good until such time that unencumbered title passes to the Purchaser.

7.3 If any monies owing by the Purchaser to Laird remain unpaid under this Agreement, Laird reserves the right to enter the Delivery Place or the premises of any associated company or agent where the Goods are located, without liability for trespass or any resulting damage, to retake possession of the Goods.

8. INDEMNITY AND LIMITATION OF LIABILITY

8.1 The Purchaser is liable for and indemnifies Laird, its related bodies and their officers, employees and agents from and against any direct or indirect Claims however suffered or incurred by Laird, its related bodies and their officers, employees and agents (including consequential losses, loss or revenue and related losses) in connection with:

- (a) the supply of the Goods to the Purchaser;
(b) the use of the Goods by the Purchaser or other employee of the Goods;
(c) breach by the Purchaser of any term, obligation, warranty, representation, undertaking or other acknowledgment contained in this Agreement;
(d) tort, including negligence or breach of a legislative requirement;
(e) breach of equitable duty, including breach of confidentiality; and
(f) any Claims by a third party against Laird arising out of or in connection with any matter set out in subparagraph (a)-(e) above.

8.2 The indemnities contained in this clause 8 extend (without limiting the generality of the foregoing) to any Claims incurred by Laird by virtue of any injury or disability suffered by any employee of the Purchaser, however and whenever arising.

8.3 The obligations of the Purchaser to indemnify Laird under this Agreement or at Law shall not be affected by:

- (a) the termination of this Agreement;
(b) the obligation of the Purchaser to effect insurance; or

(c) any obligation of Laird to effect insurance.

- 8.4 The liability of Laird to the Purchaser for any loss or Claim arising under this Agreement shall be limited to the amount which Laird is able to recover under a policy of insurance held by Laird under this Agreement. Laird shall not be liable to the Purchaser for loss or damage arising from a breach of contract, tort (including negligence), under statute or any other basis in law or equity in the nature of loss of profits, loss of revenue, loss of production, loss or denial of opportunity, loss of access to markets, loss of goodwill, loss of business reputation or publicity, loss of use indirect, remote or unforeseeable loss or any similar loss whether or not in the reasonable contemplation of the Parties at the time of execution of the Agreement suffered by the Purchaser in relation to this Agreement or the Goods.

9. PRICE

- 9.1 Unless varied by a variation to the Order, the Rates or the fees stated in the Order are the only rates or fees payable to Laird in respect of an Order. The Price is inclusive of all charges, insurance, taxes, taxable supplies, levies and duties or other costs incurred by Laird for its compliance under the relevant Order.
- 9.2 Laird shall issue valid tax invoices to the Purchaser and the Purchaser must make full payment on or before the due date specified on the invoice.
- 9.3 If the Purchaser does not have a customer account with Laird, then the Purchaser must pay the Price in full prior to or at Delivery of the Goods.
- 9.4 All amounts invoiced to the Purchaser must be paid in full without set off, deduction, withholding or counterclaim.

10. STATUTES AND REGULATIONS

The Purchaser shall observe and comply with all relevant Laws relating to the use of the Goods, including without limitation all statutes and regulations relating to health and safety, the environment and pollution. The Purchaser must maintain and comply with the terms of any permissions, approvals, licenses, and permits required in connection with the use of the Goods.

11. INSURANCE

11.1 Insurance required

- (a) For the full duration of the Term and specifically any period when an Order is ongoing, the Purchaser must at its own cost effect and maintain current policies of Insurance.
- (b) The Purchaser shall insure the Goods against theft, physical loss or damage during the period from dispatch to delivery, whilst in transit anywhere in Australia, for not less than its market value.

11.2 Endorsement

- (a) At any time after Laird has accepted an Order and prior to risk and title of said Goods passing to the Purchaser:
- (i) The public liability insurance must, unless Laird agrees in writing, be endorsed to note Laird or the Third Party Provider (as the case may be) as owner of the Goods and to indemnify Laird against any liability which may arise from the Purchaser's use of the Goods passing to the Purchaser.
- (ii) The Purchaser's plant and equipment insurance shall be endorsed to note the interests of Laird or the Third Party Provider (as the case may be) as owner of the Goods and to indemnify Laird against any liability which may arise from any loss or Damage to, or theft of, the Goods caused by an act or omission of the Purchaser.

11.3 Costs

The Purchaser agrees to pay all costs associated with the Insurances and accepts responsibility for the payment of any claims deductibles which may be applicable.

11.4 Certificate of currency

Upon request, the Purchaser shall provide Laird with certificates of currency evidencing the Insurances before taking possession of the Goods and upon any change to or renewal of the Insurances.

12. TERMINATION

12.1 Termination without notice

Without limiting any other remedies available to Laird, Laird may, by notice in writing to the Purchaser terminate an Order or this Agreement, with effect from the date in the notice, if in Laird's reasonable opinion:

- (a) the Purchaser breaches any term of this Agreement;
- (b) the Purchaser fails to comply with the terms of an accepted Order;

- (c) the Purchaser commits an act or omits to do an act which Laird considers is likely to damage Laird's business or reputation;
- (d) the Purchaser suffers or is likely to suffer an Insolvency Event; or
- (e) Laird becomes unable to provide the Goods in the manner specified in this Agreement or an Order.

12.2 **Termination with notice**

Notwithstanding clause 12.1, Laird may terminate this Agreement without cause at any time by giving 30 days' notice to the Purchaser.

12.3 **Termination by Purchaser**

The Purchaser must not terminate this Agreement during the currency of any Order. The Purchaser may otherwise terminate this Agreement on 60 days' notice to Laird.

12.4 **Rights unaffected by termination**

Termination of this Agreement does not affect the rights accrued by the Parties under the Agreement and at Law in respect of any breach of this Agreement by the other Party.

13. **GST**

To the extent that the consideration to be paid or provided under this Agreement is not expressed to be GST inclusive, a Party must also pay the GST payable on a taxable supply made to it. The Party making the taxable supply must provide a Tax Invoice to the other Party at or before the time that the other Party is required to pay the GST. Terms used in this clause have the meanings given to them in the GST Act.

14. **DISPUTE RESOLUTION**

14.1 In the event either Party to this Agreement alleges a breach of this Agreement, then before any legal proceedings or recovery action are instituted, the Party alleging the breach (First Party) must first issue a written notice of dispute to the other Party setting out the alleged breach, the amount (if any) in dispute, the action required, and the time within which the First Party requires the breach to be rectified (which must not be less than 7 days) (Dispute Notice).

14.2 If the dispute is not resolved within 14 days after the Dispute Notice is given to the other Party or Parties, the Parties must endeavour to settle the dispute in connection with the Agreement by mediation. The mediation is to be conducted by a mediator who is independent of the Parties and appointed by agreement of the Parties, and must be conducted in Perth, Western Australia. The Resolution Institute mediation and conciliation rules (at the date of this Agreement) as amended by this clause apply to the mediation, except where they conflict with this clause (in which case this clause shall prevail).

14.3 If the Parties cannot agree upon the mediator and the mediator's remuneration within 7 days after referral to mediation, the chair of the Resolution Institute (principal appointer) or the principal appointer's nominee, acting on the request of any Party to the dispute, shall appoint a mediator and determine the rate. The mediator's remuneration shall be borne by the Parties to the dispute in equal shares. Each Party must pay its own costs of the mediation.

14.4 If the dispute is not resolved within 14 days after the appointment of the mediator, a Party may commence court proceedings in relation to the dispute.

14.5 To the extent that a Party seeks to have a Dispute resolved or determined in a different forum, including but not limited to a court, another Party may apply to have that process or proceeding stayed and / or dismissed.

14.6 Nothing in this clause prevents the Parties from commencing proceedings for urgent interlocutory relief where appropriate.

15. **FORCE MAJEURE**

15.1 Where any failure or delay by a Party (**Affected Party**) in the performance of its obligations (except payment obligations) under this Agreement is caused, directly or indirectly, by a Force Majeure Event:

- (a) the Affected Party must as soon as practicable give the other Party written notice of that fact;
- (b) the Affected Party is not liable for that failure or delay; and
- (c) the Affected Party's obligations under this Agreement are suspended, to the extent to which they are affected by the relevant Force Majeure Event, for the duration of the Force Majeure Event.

15.2 If the Force Majeure Event continues for more than 30 consecutive days then while it continues, the non-affected Party may, in its sole discretion, terminate this Agreement with immediate effect.

16. **PPSA**

16.1 Words and phrases used in this clause 16 that have defined meanings in the PPSA have the same meaning as in the PPSA unless context otherwise indicates.

16.2 The Parties acknowledge and agree that prior to title of any Goods passing to the Purchaser, the supply of the Goods under this Agreement constitutes a Security Interest in favour of the Secured Party, and

the Secured Party's rights and interest in proceeds derived from the Goods constitutes a Security Interest in such proceeds.

- 16.3 The Grantor acknowledges that this Agreement constitutes a Security Agreement pursuant to the PPSA, and the Grantor agrees to the following:
- (a) the Secured Party can affect and maintain a Registration (in any manner that it considers appropriate) of its Security Interest on the PPSR in relation to any Security Interest contemplated or constituted by this Agreement;
 - (b) the Grantor will:
 - (i) ensure that all serial numbers provided to the Secured Party in relation to Serial Numbered Collateral are true and correct;
 - (ii) sign any document and/or provide any further information (which information the Grantor warrants to be complete, accurate and up-to-date in all respects) and/or assistance which the Secured Party may reasonably require to enable perfection of the Secured Party's Security Interest or registration of a Financing Statement or Financing Change Statement on the PPSR, give effect to any Financing Statement, Financing Change Statement, Amendment Demand and/or ensure any Security Interest granted in favour of the Secured Party is continuously perfected;
 - (iii) give the Secured Party no less than 14 days' written notice of any proposed change to the Grantor's business name and/or any other changes in the Grantor's details (including but not limited to, changes in their address, facsimile number, email address, trading name or business activities);
 - (iv) indemnify the Secured Party against any costs the Secured Party incurs in perfecting and maintaining its perfected Security Interest and any costs the Secured Party may incur in the course of enforcing its Security Interests or any of its rights under this Agreement, the PPSA or at law generally;
 - (v) procure from any persons considered by the Secured Party to be relevant to its security position, such agreement and waivers as the Secured Party may at any time reasonably require;
- 16.4 The Grantor waives its rights under section 157 of the PPSA to receive a copy of any Verification Statement after the registration of a Financing Statement or Financing Change Statement in respect of the Security Interest created by this Agreement; and
- 16.5 The Secured Party does not need to give the Grantor any notice under the PPSA (including a notice of a Verification Statement) unless the notice is required by the PPSA and that requirement cannot be excluded.
- 16.6 If Chapter 4 of the PPSA would otherwise apply to the enforcement of a Security Interest arising in connection with this Agreement, the Grantor agrees that the following provisions of the PPSA will not apply to the enforcement of this Agreement:
- (a) to the extent that s 115(1) allows this, that the following provisions of the PPSA will not apply to the enforcement of that security interest:
 - (i) s 95 (notice of removal of accession), to the extent that it requires the secured party to give notice to the grantor;
 - (ii) s 96 (when a person with an interest in the whole may retain an accession);
 - (iii) s 121(4) (enforcement of liquid assets — notice to grantor);
 - (iv) s 125 (obligation to dispose of or retain collateral);
 - (v) s 130 (notice of disposal), to the extent that it requires the secured party to give a notice to the grantor;
 - (vi) s 132(3)(d) (contents of statement of account after disposal);
 - (vii) s 132(4) (statement of account if no disposal);
 - (viii) s 142 (redemption of collateral); and
 - (ix) s 143 (reinstatement of security agreement); and
 - (b) to the extent that s 115(7) allows this, that the following provisions of the PPSA will not apply to the enforcement of that Security Interest:
 - (i) s 127 (seizure by higher priority parties – notice);
 - (ii) s 129(2) and (3) (disposal by purchase);
 - (iii) s 132 (secured party to give statement of account);
 - (iv) s 134(2) (proposal of secured party to retain collateral);
 - (v) s 135 (notice of retention of collateral);
 - (vi) s 136(3), (4) and (5) (retaining collateral free of interest); and
 - (vii) s 137 (persons entitled to notice may object to proposal); and

- (c) notices or documents required or permitted to be given to the Secured Party for the purposes of the PPSA must be given in accordance with the PPSA.
- 16.7 The Purchaser agrees that it must not, prior to receiving unencumbered title for the Goods, do the following without prior written consent from the Laird:
- (a) create any Security Interest or lien over any of the Goods whatsoever (other than Security Interests granted in favour of Laird);
 - (b) sell, lease, or dispose of its interest in the Goods;
 - (c) give possession of the Goods to another person except where Laird expressly authorises it to do so;
 - (d) permit any of the Goods to become an accession to or be commingled with any other asset;
 - (e) allow the Goods to become affixed to any land; or
 - (f) detach, or procure the detachment of the Goods from any land or goods to which it becomes attached.
- 17. NOTICES**
- 17.1 Notices under this Agreement may be delivered to the Parties by mail, email or facsimile in accordance with the details in the Order.
- 17.2 Notice will be deemed given:
- (a) in the case of posting, three days after dispatch;
 - (b) in the case of email, the date and time the email is sent from the sender; and
 - (c) in the case of facsimile, upon receipt of transmission if received on a business day or otherwise at the commencement of the first business day following transmission.
- 18. GENERAL**
- 18.1 **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all other agreements or representations pertaining to the same.
- 18.2 **Variation:** This Agreement may not be amended, modified, waived, discharged or terminated verbally nor by implication. No variation to this Agreement shall be valid unless in writing by each of the Parties.
- 18.3 **Severability:** If any provision of this Agreement is, or at any time becomes, prohibited by or unlawful under, any applicable law, regulation or other condition actually applied or otherwise becomes void or unenforceable, it will be severed and rendered ineffective so far as is possible without modifying the remaining provisions of this Agreement. The remaining provisions will, to the extent permitted by Law, continue in full force and effect.
- 18.4 **Wavier:** No failure to exercise and no delay in exercising any right, power or remedy under this Agreement will operate as a waiver, nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.
- 18.5 **Assignment:** Laird may assign any of its rights or obligations under this Agreement without the consent of the Purchaser. The Purchaser must not assign any of its rights or obligations under this Agreement without the prior written consent of Laird.
- 18.6 **Subcontract:** Prior to payment of the Price in full, the Purchaser must not subcontract all or any part of the Goods without the Laird's prior written consent. Laird may freely, and without requiring the consent or prior knowledge of the Purchaser subcontract, assign or outsource any obligation under this Agreement including the supply of the Goods.
- 18.7 **Jurisdiction:** This Agreement is governed by the laws in force in Western Australia from time to time. The parties submit to the non-exclusive jurisdiction of the courts of Australia and waive any rights for proceedings to be heard in any other jurisdiction.