

Standard Order Conditions

These Standard Order Conditions apply to any Order issued by the Principal, except to the extent that the Contractor has been engaged by the Principal under a separate written agreement, in which case, the terms of that agreement applies to the Order.

Part A - General Provisions (applying to all Orders)

Part B - Provisions applying to Goods

Part C - Provisions applying to Services

Part D - Provisions applying to Equipment hire

PART A - GENERAL PROVISIONS (APPLYING TO ALL ORDERS)

1. DEFINITIONS

Unless the context otherwise requires, the following terms have the meanings given when used in the Contract.

Authority means any court or tribunal with the relevant jurisdiction, or any public or statutory or government (whether federal, state or local) body, authority, council, inspectorate, instrumentality, department, ministry, official or agency which in any way governs or affects any aspect of the supply of Goods, performance of the Services and/or hire of the Equipment under the Contract, or any private or corporate provider of a utility.

Business Day means a day on which banks are open for general banking business in Brisbane excluding a Saturday, Sunday, special or public holiday and 27, 28, 29, 30 or 31 December.

Constructional Plant means all plant, tools and equipment to be used by the Contractor in the performance of the Services and includes cranes, tools, machinery and temporary buildings.

Contract means the Order, these Standard Order Conditions and any other document stated in the Order to be part of the Contract.

Contractor means the contractor or supplier so named in the Order.

Contractor Officer means an employee, consultant, subcontractor or agent of the Contractor and includes their respective employees, consultants, subcontractors and agents.

Equipment means the equipment hired to the Principal, as described in the Order (if any).

Goods means the items described in the Order (if any).

Legal Requirements means:

- (a) Acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth and the State or Territory applicable to the work under the Contract;
- (b) certificates, licences, consents, permits, approvals, codes, standards and requirements of organisations having jurisdiction in connection with or recognised generally as an Authority in respect of the work under the Contract, and the requirements of any development consent issued in relation to the work under the Contract;
- (c) Australian Standards, the Building Code of Australia and any other relevant standards;
- (d) the Codes of Practice of the State or Territory applicable to the work under the Contract and other appropriate codes for the construction industry; and
- (e) fees and charges payable in connection with the foregoing.

Losses means losses, damages, costs, charges, expenses, penalties, interest and fines, including those arising as a result of claims, demands, actions, proceedings or suits by any person.

Modern Slavery Laws means the *Modern Slavery Act 2018* (Cth), Divisions 270 and 271 of the *Criminal Code 1995* (Cth), and any other analogous anti-Modern Slavery laws or regulations applicable to the Consultant or applicable in Australia.

Notice of Dispute has the meaning given to it in clause 13.2.

Order means the purchase order or work order for Goods, Services and/or Equipment hire issued by the Principal to the Contractor.

Principal means the Port of Brisbane Pty Ltd.

Health and Safety Legislation means all Legal Requirements relating or applicable to work health and safety (including, without limitation, all work health and safety, marine safety, dangerous goods, fire, building, rail, heavy vehicle and electrical safety legislation), associated regulations any directions or notices issued by any Authority or any code of practice or compliance code or Australian Standard appropriate or relevant to the supply of Goods, performance of the Services and/or hire of the Equipment under the Contract.

Health and Safety Requirements means any and all directions, instructions, requests or requirements relevant to or, associated with or necessary for, compliance by the Contractor with Health and Safety Legislation or the Principal's health and safety requirements and any such matters of which the Contractor has been informed by the Principal orally or in writing.

Services means the works or services described in the Order (if any).

Site means the areas specified in the Order for the delivery of the Goods or Equipment or the performance of the Services.

Any term that is capitalised and is not defined in these Standard Order Conditions has the meaning given to it in the Order.

2. SUPPLY OF GOODS, SERVICES OR EQUIPMENT

- 2.1 The Contractor must supply the Goods, perform the Services and/or hire the Equipment in accordance with the Contract. If any delay in delivering the Goods, performing the Services or delivering or repairing Equipment, occurs or is foreseen, the Contractor must immediately notify the Principal of the anticipated length of the delay.
- 2.2 The Contractor must comply with all Legal Requirements including Health and Safety Legislation affecting or applicable to the Goods or their supply, the performance of the Services, or the hire of the Equipment, and must pay any fees, charges, levies and taxes imposed by an Authority in relation to the Goods, Services or hire of the Equipment.
- 2.3 The Contractor must:
 - (a) give the Principal at least two Business Days notice prior to accessing the Site to supply the Goods, perform Services and/or hire the Equipment;
 - (b) prior to accessing the Site:
 - (i) review and familiarise itself with Health and Safety Legislation and Health and Safety Requirements, including but not limited to the:
 - (A) minimum safety dress standards applicable to the particular place where the Goods or Equipment will be delivered or Services will be performed; and
 - (B) requirement to provide the relevant Safety Data Sheet (SDS) with each supply of any substance requiring an SDS and ensuring that the substance(s) are in the appropriate package, labelled correctly and meet the requirements of the relevant SDS; and
 - (ii) complete any health, safety or other training or induction required by the Principal;
 - (c) only access the Site at the locations and on the days and times specified by the Principal (except as otherwise directed by the Principal, or where an emergency occurs);
 - (d) when on Site:

- (i) comply with all Health and Safety Legislation and Health and Safety Requirements and any direction given by the Principal in respect of the Health and Safety Legislation or Health and Safety Requirements;
 - (ii) not interfere with the Principal's activities at the Site;
 - (iii) cooperate, consult and coordinate activities with the Principal;
 - (e) report any incident relating to work health and safety or the environment (which is reportable under the Health and Safety Legislation or Health and Safety Requirements) to the Principal as soon as reasonably possible, and in any event, within a time period that ensures the Principal can comply with all relevant Legal Requirements; and
 - (f) provide the Principal with reasonable assistance (including access to relevant documents and Contractor Officers) it requests in relation to any such incident.
- 2.4 Where the Contractor supplies Goods or Services or hires Equipment, the Contractor must provide all relevant operating, environmental and health and safety information relevant to the Goods or Services or Equipment to the Principal before or on delivery.
- 2.5 The Contractor must:
- (a) keep the Site clean, secure and tidy and regularly remove rubbish and surplus material;
 - (b) clean up and make good fencing, roads, footpaths and surfaces on or adjacent to the Site, to the Principal's satisfaction;
 - (c) correctly set out any works on the Site; and
 - (d) not allow the disconnection of or disruption to any utility or other services, without the Principal's prior approval.

3. ASSIGNMENT, SUBCONTRACTING AND PERSONNEL

- 3.1 The Contractor must not subcontract, assign, novate, transfer, delegate or otherwise deal with the Contract or any right, obligation, duty or responsibility except with the prior written consent of the Principal.
- 3.2 The Principal may direct the Contractor to have removed from the Site or from any activity connected with the work under the Contract, within such time as the Principal directs, any Contractor Officer engaged in connection with the work under the Contract who, in the opinion of the Principal, has caused the Contractor to be in breach of an obligation under this Contract. The person shall not thereafter be employed on or permitted to access the Site or undertake activities related to the works without the prior written approval of the Principal.

4. PRECEDENCE OF DOCUMENTS

If there is any discrepancy, inconsistency or ambiguity between an Order and these Standard Order Conditions, the Order shall prevail. The Order and these Standard Order Conditions shall have precedence over any other documents forming part of the Contract.

5. INTELLECTUAL PROPERTY RIGHTS

The Contractor warrants that the intellectual property rights of a third party will not be infringed by the supply of the Goods or Equipment under the Contract, the use of those Goods or Equipment by the Principal or the performance of the Services by the Contractor.

6. INDEMNITY

- 6.1 The Contractor indemnifies the Principal and its employees, officers, contractors and agents (**Indemnified Parties**) against all Losses suffered or incurred by the Indemnified Parties in respect of:
- (a) any damage to the Site, the Goods, Services or any property whether located on the Site or otherwise;
 - (b) death or injury to any person whether located on the Site or otherwise;
 - (c) a breach by the Contractor or Contractor Officer of any Legal Requirement in the course of, or caused by, the performance of its obligations under the Contract; and
 - (d) the breach by the Contractor of an obligation under the Contract or a warranty contained in clause 5, clause 7.3, clause 19, clause 23 or clause 31, arising out of or in connection with any act, error or omission (including negligence) of the Contractor or Contractor Officer.
- 6.2 Notwithstanding any other provision of this Contract, a party (**First Party**) will not be liable to the other party (**Second Party**) in contract (including under any indemnity), tort (including in negligence or for breach of statutory duty) or otherwise, for any:
- (a) special, indirect or consequential loss or damage of any nature; or
 - (b) loss of profit, revenue, business, contracts or anticipated savings, (**Consequential Loss**) related to or connected with this Contract, except Consequential Loss:
 - (i) incurred as a result of the fraud or wilful, reckless or deliberate breach of the Contract by the First Party, its employees, agents or contractors; or
 - (ii) forming part of a claim by the Second Party for contribution or indemnity from the First Party in respect of claims by third parties for personal injury, death or property damage.
- 6.3 This clause 6 survives termination of the Contract.

7. PAYMENT

- 7.1 Subject to the Goods delivered, Services performed or Equipment hired complying with the Contract, the Principal must pay the Contractor the amount specified in the Order within 30 days from the date of the Contractor's acceptable tax invoice (provided an acceptable tax invoice is given promptly to the Principal).
- 7.2 An acceptable tax invoice must include a full description of the Goods or Services provided or Equipment hired and must include the following:
- (a) the Order number; and
 - (b) the name of the Principal employee contact.
- 7.3 When submitting an invoice, the Contractor warrants to the Principal that it is a resident of Australia for Australian tax purposes.

8. GST

- 8.1 In this clause 8, words or expressions have the same meaning as defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) unless the context makes it clear that a different meaning is intended.
- 8.2 All amounts used in this Contract, including amounts and variables in formulas, are exclusive of GST, unless it is clearly stated that they are intended to be GST inclusive.
- 8.3 If a party makes a supply under or in connection with the Contract in respect of which GST is payable, the consideration for the supply but for the application of this clause 8 (**GST exclusive consideration**) is increased by an amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- 8.4 If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit to which the other party is entitled for the loss, cost or expense and then increased in accordance with clause 8.3. That party is assumed to be entitled to a full input tax credit unless it proves, before the date on which the payment must be paid, that its entitlement is otherwise.
- 8.5 Notwithstanding any other provision of the Contract, the recipient of a taxable supply made under or in connection with the Contract need not make a payment until the supplier has given the recipient a tax invoice for the supply to which the payment relates. The supplier must give the recipient an adjustment note for an adjustment arising from an adjustment event relating to a taxable supply made under or in connection with the Contract within seven days after the date the supplier becomes aware of the adjustment event. All invoices must comply with the GST Act.

- 8.6 If a party is a member of a GST group, references to GST which the party must pay, and to input tax credits to which the party is entitled, include GST which the representative member of the GST group must pay and input tax credits to which the representative member is entitled.
- 8.7 If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay and indemnify the payee against the amount of that GST.

9. RIGHT OF SETOFF

- 9.1 The Principal may at any time, deduct from any amount due or becoming due to the Contractor under or in connection with the Contract to meet:
- (a) all debts and amounts due from the Contractor to the Principal whether under or in connection with the Contract or otherwise; and
 - (b) the amount of any claims that the Principal has reasonable grounds for believing may be made against the Contractor under or in connection with the Contract.
- 9.2 The Principal must notify the Contractor in writing of any amounts deducted under clause 9.1 and the basis for the deduction, at the time that the deducted amount would otherwise be due to the Contractor.

10. DEFAULT BY CONTRACTOR

- 10.1 If the Contractor becomes insolvent or bankrupt, the Principal may terminate the Contract immediately by written notice to the Contractor.
- 10.2 If the Contractor fails to perform or comply with any of its obligations under the Contract (**Contractor Default**) then the Principal may serve a notice on the Contractor specifying the Contractor Default, the time within which the Contractor Default is to be remedied and requiring the Contractor to remedy it.
- 10.3 If, within the time specified in a notice served under clause 10.2, the Contractor fails to remedy the Contractor Default to the satisfaction of the Principal, then the Principal may terminate the Contract by written notice, without prejudice to its other rights.
- 10.4 On receiving a notice under clause 10.1 or clause 10.3, the Contractor must take any action relating to the termination of the Contract reasonably required by the Principal.

11. CONFIDENTIALITY

A party must not, without the prior written consent of the other party:

- (a) disclose confidential information:
 - (i) relating to the Goods, Services or hire of Equipment or a party's business or operations;
 - (ii) provided by one party to the other; or
- (b) use such information for purposes unrelated to this Contract, unless disclosure is required by an applicable law, stock exchange listing rule or taxation authority or any other Authority.

This clause 11 survives termination of the Contract.

12. NOTICES

A notice under the Contract must be in writing, in English and addressed to the receiving party, and will be deemed to have been received:

- (a) if posted, on the 3rd day after posting;
- (b) if delivered personally, upon delivery; or
- (c) if sent by email:
 - (i) during a Business Day, on dispatch of the transmission; or
 - (ii) on a day other than a Business Day, on the next Business Day,

unless the sender's server indicates a malfunction or error in transmission or the recipient immediately notifies the sender of an incomplete transmission.

13. DISPUTE RESOLUTION

- 13.1 Any dispute on any matter arising out of or pursuant to the Contract must be resolved in accordance with this clause.
- 13.2 Either party may give a notice in writing to the other party giving formal notice and details of a dispute between the parties (**Notice of Dispute**).
- 13.3 The parties must meet within five Business Days of service of the Notice of Dispute to attempt to resolve the dispute.
- 13.4 Despite the existence of the dispute, the parties must continue to perform their obligations under the Contract.
- 13.5 This clause 13 survives termination of the Contract.

14. MODERN SLAVERY

- 14.1 The Contractor must comply with Modern Slavery Laws and must not do anything that would put the Principal in breach of Modern Slavery Laws. At the Principal's request the Supplier must cooperate with, and provide all reasonable information and assistance to, the Principal in order for it to comply with its reporting obligations under the Modern Slavery Law. Further, the Supplier must notify the Principal immediately of any suspected or actual Modern Slavery offence committed in its operations or supply chain. In the event of an actual or suspected Modern Slavery offence and without limiting any other available right or remedy, the Principal may suspend or terminate the Contract.

15. MISCELLANEOUS PROVISIONS

- 15.1 If Goods have been specified in the Order, Part B applies to this Contract. If Services have been specified in the Order, Part C applies to this Contract. If Equipment hire has been specified in the Order, Part D applies to this Contract.
- 15.2 The Contract is governed by and must be construed and enforced in accordance with the laws of Queensland, Australia.
- 15.3 The Contract contains the entire agreement between the parties and supersedes all prior arrangements, letters of intent, memorandums of understanding, Orders, representations and documents (if any) relating to the Goods, Services, or Equipment (including any terms and conditions proposed or delivered to the Principal by the Contractor) or the Contract.
- 15.4 A waiver of any provision of or right under the Contract shall not constitute a waiver of any other provision or right.
- 15.5 This Contract may be varied by the Principal (including by way of additions, omissions or replacements) when:
- (a) the Principal gives the Contractor a notice in writing describing the variation;
 - (b) the Contractor provides a written estimate of the value of the variation; and
 - (c) the variation notice is signed by both parties.
- 15.6 The Principal may cancel the Order or any part thereof at any time. If the Principal cancels the Order or any part thereof, the Principal will be liable to pay:
- (a) for Goods supplied in accordance with the Order up to the date of cancellation; or
 - (b) for Services performed up to the date of cancellation and for costs of materials and other items ordered in connection with the Services for which the Contractor is legally bound to pay; or
 - (c) for Equipment hired up to the date of cancellation.
- 15.7 Upon payment under clause 15.6(a) or 15.6(b), title to and property in all those materials and other items shall pass to the Principal.

PART B - PROVISIONS APPLYING TO GOODS

16. INSURANCE FOR THE GOODS

The Contractor must insure the Goods for the period when they are in transit to the Site against all loss or damage arising from any insurable cause, for a limit of not less than the full replacement cost of those Goods.

17. PROTECTION

The Contractor must protect the Goods from loss or damage arising from any cause, and ensure that the Goods are appropriately packed, handled and transported to the Site to prevent damage or shrinkage while in transit or storage. The Contractor must ensure that delivery documents accompany the Goods to the Site and bear the Order number.

18. PASSING OF TITLE AND RISK

- 18.1 The Contractor warrants that title in the Goods, when it passes to the Principal under clause 18.2 will be free and clear of any and all liens, restrictions, reservations, security interests and encumbrances.
- 18.2 Title to the Goods passes to the Principal upon the earlier of payment for the Goods and delivery of the Goods to the Site. The Contractor bears the risk of loss or damage to the Goods until they are accepted under clause 21.

19. QUALITY OF WORKMANSHIP

- 19.1 The Contractor warrants that the Goods will:
- (a) comply with all the requirements of the Contract and Legal Requirements including Health and Safety Legislation;
 - (b) match the description of the Goods in the Order;
 - (c) be of merchantable quality and fit for their intended purpose; and
 - (d) be free from all defects and imperfections affecting performance.
- 19.2 The Contractor must, at its expense, rectify any defect discovered within 12 months of the Goods being used by the Principal or 18 months from the date of delivery of the Goods, whichever is earlier.
- 19.3 If the Contractor fails to rectify a defect within a reasonable time after receiving notice of the defect, the Principal may, without prejudice to its other rights, rectify the defect and the costs incurred in doing so will be a debt due from the Contractor to the Principal.

20. INSPECTION

The Principal must at all times, on giving reasonable notice, unless urgent action is considered necessary by the Principal to protect property or people, have access to the Contractor's premises and those of its subcontractors for the purpose of inspecting work in progress on the Goods.

21. ACCEPTANCE

- 21.1 Within 15 Business Days of delivery of the Goods to the Site, the Principal may notify the Contractor whether the Goods are accepted or rejected, and if the Principal fails to do so, the Goods will be deemed accepted.
- 21.2 If the Goods are rejected, the Principal's notice of rejection must state the reasons for the rejection and may either:
- (a) require the Contractor to remove the Goods and refund to the Principal any amount paid in relation to the Goods;
 - (b) direct the Contractor to replace or rectify the Goods; or
 - (c) notify the Contractor that the Principal elects to accept the Goods and claim damages for the Contractor's failure to comply with the Contract.
- 21.3 If the Contractor is directed to replace or rectify the Goods, the Contractor must notify the Principal when the replacement or rectification is completed and clause 19 will apply.
- 21.4 Neither payment for Goods nor inspection of Goods under clause 20 constitutes acceptance of Goods that do not comply with the Contract or affects the ability of the Principal to subsequently reject the Goods under this clause 21.

PART C - PROVISIONS APPLYING TO SERVICES

22. INSURANCE

- 22.1 The Contractor must maintain and ensure all subcontractors maintain (or are covered by the following insurances):
- (a) workers' compensation insurance in relation to its employees;
 - (b) Contractor's all risk insurance for a limit of not less than the amount of the Services specified in the Order;
 - (c) public liability insurance for a limit of not less than \$10 million from an independent reputable insurer in respect of loss or damage that may occur to any physical property, or death or bodily injury to any person that arises out of or in connection with the performance of the Services which names the Principal as an insured and includes a waiver of subrogation clause;
 - (d) third party motor vehicle liability insurance for a limit of not less than \$5,000,000 per claim against liability for death or bodily injury to any person or damage to the Site or property located on the Site, for each of its vehicles that enter the Site during the performance of the Services; and
 - (e) insurance for its Constructional Plant during its transit to the Site and throughout the period that the Constructional Plant is on or near the Site against all loss or damage arising from any insurable cause and for a limit of not less than the market value (including delivery to Site) of the Constructional Plant.
- 22.2 The Contractor must, within 14 days of the date of the Order and whenever the Principal requests, provide the Principal with evidence that it has effected and maintains the insurances in clause 22.1.

23. QUALITY OF WORKMANSHIP

- 23.1 The Contractor warrants that:
- (a) it will at all times be suitably qualified and experienced to perform the Services; and
 - (b) the Services will be performed in accordance with:
 - (i) best practice standards of diligence, skill, care and efficiency to be expected of a competent contractor performing services of a similar nature to the Services; and
 - (ii) all the requirements of the Contract, Legal Requirements and Health and Safety Legislation.
 - (c) the Services will:
 - (i) comply with all the requirements of the Contract, Legal Requirements and Health and Safety Legislation; and
 - (ii) be free from all defects and imperfections affecting performance.
- 23.2 The Contractor must, at its expense, rectify any defect discovered within 12 months of the completion of the Services.
- 23.3 If the Contractor fails to rectify a defect within a reasonable time after receiving notice of the defect, the Principal may, without prejudice to its other rights, rectify

the defect and the costs incurred in doing so will be a debt due from the Contractor to the Principal.

24. INSPECTION

The Principal must at all times, on giving reasonable notice unless urgent action to protect the is considered necessary by the Principal to protect property or people, have access to the places where the Services are being performed for the purpose of inspecting Constructional Plant and work in progress.

25. CARE OF THE SERVICES

25.1 Where the Services include physical works, the Contractor shall be responsible for the care of those works until completion and shall promptly make good loss or damage to the Services caused by an act, neglect or default of the Contractor or the Contractor's employees, agents or subcontractors.

26. NO ACCEPTANCE

Neither payment for Services nor an inspection under clause 24 constitutes acceptance of Services that do not comply with the Contract.

27. CONSTRUCTIONAL PLANT

27.1 Except as otherwise provided, the Contractor must:

- (a) supply all Constructional Plant necessary for the performance of the Services in accordance with the Contract;
- (b) notify the Principal at least 24 hours before any fixed or mobile plant or equipment is used on-Site;
- (c) if requested to do so by the Principal, certify that all Constructional Plant to be used on-Site complies with all Legal Requirements or Health and Safety Legislation;
- (d) ensure that each item of Constructional Plant is fitted with a current inspector's tag or uniquely identified by a stamp or an engine, chassis or serial number;
- (e) not remove any Constructional Plant from the Site without the prior written consent of the Principal; and
- (f) on completion of the Services, remove the Constructional Plant from the Site.

27.2 Notwithstanding the above, the Principal may:

- (a) inspect or nominate another person to inspect, any Constructional Plant located on-Site from time to time during the performance of the Services; and
- (b) prohibit the use of any Constructional Plant that the Principal or another person considers does not meet relevant Legal Requirements or Health and Safety Legislation, and the Contractor:
 - (i) must bear the costs associated with the removal and replacement of that Constructional Plant; and
 - (ii) is not entitled to compensation as a result of that prohibition, removal or replacement.

PART D - PROVISIONS APPLYING TO EQUIPMENT HIRE

28. INSURANCE

The Contractor must maintain:

- (a) insurance for the Equipment for the period when it is in transit to the Site against all loss or damage arising from any insurable cause, for a limit of not less than the full replacement cost of that Equipment;
- (b) workers' compensation insurance in relation to its employees; and
- (c) third party motor vehicle liability insurance against liability for death or bodily injury to any person or damage to the Site or property located on the Site, for each of its vehicles that enter the Site during the performance of the Contractor's obligations under the Contract.

29. PROTECTION

29.1 The Principal must protect the Equipment from loss or damage arising from any cause, other than a breakdown, defect or malfunction of the Equipment or an act or omission of the Contractor or Contractor Officer .

29.2 The Contractor must ensure that the Equipment is appropriately packed, handled and transported to the Site to prevent damage while in transit and must provide all handling devices required for handling the Equipment when in transit.

30. PASSING OF TITLE AND RISK

The parties acknowledge and agree that:

- (a) the Contractor retains full title to the Equipment notwithstanding the delivery of the Equipment to, and the possession and use of the Equipment by, the Principal; and
- (b) the Principal will be a bailee of the Equipment only, subject to the terms and conditions of the Contract.

31. QUALITY OF WORKMANSHIP

The Contractor warrants that on delivery, the Equipment will:

- (a) comply with all the requirements of the Contract, Legal Requirements and Health and Safety Legislation;
- (b) match the description of the Equipment in the Order;
- (c) be fit for its intended purpose; and
- (d) be free from all defects and imperfections affecting performance .

32. INSPECTION

32.1 On delivery of the Equipment to the Site, a representative of each of the Principal and the Contractor must jointly inspect and, if necessary, test the Equipment.

32.2 If the Equipment is not accepted by the Principal after the joint inspection, the Principal may either require the Contractor to replace the rejected Equipment or direct the Contractor to repair the Equipment.

32.3 Within 5 Business Days of the Principal's acceptance of the Equipment, the Contractor must provide to the Principal a report reflecting the agreed condition of the Equipment including a genuine indication of the state of the Equipment (including existing defects) and details of all servicing requirements, attachments, accessories, tools and supporting manuals and documentation for the Equipment.

33. MAINTENANCE AND REPAIR

33.1 The Principal must advise the Contractor of any defect in or damage to the Equipment and the Contractor must:

- (a) repair the defective or damaged Equipment;
- (b) supply to the Principal an appropriate replacement for the Equipment while it is being repaired, if requested to do so; and
- (c) if necessary, transport the Equipment from the Site to the Contractor's premises for repairs and re-deliver the repaired or replacement Equipment.

33.2 If emergency repairs to the Equipment are required and the Contractor fails to undertake the required repairs within a reasonable time of being requested to do so by the Principal, the Principal may carry out the emergency repairs to the Equipment without invalidating any warranty given by the Contractor.

33.3 The Contractor is liable for all costs associated with repair of defective or damaged Equipment (including costs incurred by the Principal under clause 33.2) unless the defect or damage is the direct result of the negligent or deliberate misuse or care of the Equipment by the Principal, its employees, agents or contractors.

34. PERSONAL PROPERTY SECURITIES

34.1 For the purpose of clause 34:

- (a) **Perfect** has the same meaning as in the PPSA and Perfect, Perfecting and Perfection have corresponding meanings.
- (b) **PPSA** means the *Personal Property Securities Act 2009* (Cth), any regulations made at any time under the PPSA, or any amendment to the PPSA or those regulations, made at any time, as the context requires.
- (c) **PPS Law** means the PPSA, any provision of the PPSA or any amendment made at any time to the *Corporations Act 2001* (Cth) or any other legislation as a consequence of the PPSA.
- (d) **Security Interest** has the meaning given to it in the PPSA.

34.2 If the Contractor determines that this Contract creates or contains a Security Interest for the purposes of the PPS Law, the Principal must provide reasonable co-operation and assistance requested by the Contractor that is reasonably required to:

- (a) ensure that the Contractor's Security Interest is enforceable against third parties, Perfected or otherwise effective ; or
- (b) enable the Contractor to apply for any registration, complete any financing statement or give any notification, in connection with the Security Interest so that the Contractor has the priority required by it; or
- (c) enable the Contractor to exercise its lawful rights in connection with the Security Interest in accordance with the terms of this Contract (in which respect the Contractor must ensure and must ensure that any enforcing party appointed by it complies with any applicable Safety Legislation and Safety Requirements when seeking to exercise the Contractor's rights under the Security Interest on the Site).

34.3 The Principal must bear its own costs incurred in complying with this clause 34.

34.4 The Principal and the Contractor agree that the Principal and the Contractor will not disclose any of the information set out in section 275(1) of the PPSA in relation to this Contract or any security interest created under this agreement to any person (except that the Principal may do so where required due to the operation of section 275(7) of the PPSA or in accordance with this Contract).