

1. DEFINITIONS

In these Terms of Business, except to the extent the context otherwise requires:

BIF Act means the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) as amended and any of its regulations.

Confidential Information means any information in any form that is disclosed or made available by or on behalf of Us that is:

- (a) personal information (as defined in the *Privacy Act 1988* (Cth));
- (b) expressly provided or made available on a confidential basis; or
- (c) ought reasonably be expected to have been provided or made available on a confidential basis,

but excluding any information that is in the public domain or otherwise lawfully obtained from a different source.

Contract means a contract formed between Us in accordance with **clause 3.1** or **3.2**.

Data Security Breach means any actual or potential unauthorised access, modification, use, disclosure, destruction or loss of Confidential Information.

Delivery Point means the place for delivery of the Goods as set out in each Purchase Order or as otherwise notified by SCL.

Environmental Legislation means all relevant environmental legislation including the *Environmental Protection Act 1994* (Qld).

Ethical Supplier Threshold means the Ethical Supplier Threshold set out in the "Queensland Procurement Policy 2018", as amended or replaced from time to time.

Goods means the goods, materials, plant, equipment, parts, hardware, software and other things which You are required to supply to Us under the Contract or in the performance of the Services, as more particularly described in the Purchase Order.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended and any of its regulations.

GST, Supply, Taxable Supply, Registered and Tax Invoice have the same meaning as in the GST Act.

Policies means any of the Principal's policies and procedures available on Stanwell's website at <https://www.stanwell.com/doing-business-with-stanwell/policies-and-procedures/> as amended from time to time.

Price means the fees and rates set out in the Purchase Order.

Privacy Requirements means the *Privacy Act 1988* (Cth), the Australian Privacy Principles under that Act, the *Spam Act 2003* (Cth), the *Do Not Call Register Act 2006* (Cth), Part 6 of the *Telecommunications Act 1997* (Cth) and any other law, regulation or industry code, guideline, rule, requirement, policy, order or direction of any regulator or governmental body, as amended from time to time, in relation to privacy, data protection, health records, surveillance, data security, direct marketing or the handling of personal information, and any reasonable direction from Us, in relation to those matters.

Purchase Order means an order or request, whether oral, electronic or written, made by SCL You under these Terms of Business.

Safety Legislation means all relevant workplace health and safety legislation including the *Work Health and Safety Act 2011* (Qld), the *Electricity Act 1994* (Qld), the *Electrical Safety Act 2002* (Qld), the *Petroleum and Gas (Production and Safety) Act 2004* (Qld), the *Radiation Safety Act 1999* (Qld), the *Explosives Act 1999* (Qld), as amended, and the attendant regulations and codes of practice.

SCL and references to "**Principal**" in these Terms of Business or any annexure or attachment to it, means *Stanwell Corporation Limited ACN 078 848 674*, any Related Bodies Corporate (as defined in the *Corporations Act 2001* (Cth)) of that entity identified as the Purchaser in the Purchase Order.

Security Measures includes all reasonable physical security, logical access security, network security, communications security and personnel security measures that are reasonable for a prudent, skilled and diligent contractor to perform in accordance with good industry practice.

Services means the services described in the Purchase Order.

Site means the site where the Delivery Point is situated or where the Services are to be performed.

Taxes includes any and all sales, use, personal, property, real property, value added, consumption, stamp, documentary, business, occupation, excise, income, corporation, profits, gains, gross receipts, or other taxes, fees, withholdings, imposts, levies, duties or other charges of any nature whatsoever or whensoever, together with any penalties, fines or interest or similar additions, imposed, levied or assessed by any government, governmental, semi-governmental or other relevant authority or otherwise payable on or in respect of the Goods and Service but excludes GST.

You and **Your** and references to "**Contractor**" in any annexure or attachment to these Terms of Business mean the organisation, individual or partnership to whom SCL directs a Purchase Order.

Your Staff means Your employees, agents, contractors and sub-contractors (and employees, agents and contractors of those contractors and sub-contractors);

Us and **We** means both You and SCL.

2. AGREEMENT TO SUPPLY

- 2.1 You will supply to SCL the Goods or Services as specified in each Purchase Order in accordance with these Terms of Business.
- 2.2 SCL may issue Purchase Orders as it, in its absolute discretion, requires and does not guarantee or represent any volume of goods or services will be obtained from You.

3. FORMATION OF CONTRACT

- 3.1 Where:
 - (a) You provide SCL with a written quotation, tender, or offer to supply ("**Your Offer**");
 - (b) Your Offer has a validity period;
 - (c) SCL places a Purchase Order in response to Your Offer within such validity period; and
 - (d) SCL does not receive written notice of the revocation of Your Offer prior to it accepting Your Offer,
 a binding contract is deemed to have been formed between Us on the basis of these Terms of Business.
- 3.2 Where:
 - (a) SCL has made a verbal enquiry with You; and
 - (b) SCL places a Purchase Order with You as a result of that verbal enquiry,
 the Purchase Order constitutes an offer to purchase and upon acceptance by You, a binding contract is deemed to have been formed between Us on the basis of these Terms of Business.
- 3.3 For the purposes of **clause 3.2**, You are deemed to have accepted SCL's offer to purchase made under **clause 3.2(b)**:
 - (a) as soon as You allocate the Goods or Services against the Purchase Order; or take action to manufacture or obtain the Goods; or communicate with SCL, the content of which confirms or implies acceptance; or
 - (b) if, after 7 days from the date of the Purchase Order, You fail to notify SCL of Your refusal or inability to supply the Goods or Services to SCL.

4. CONTRACT DOCUMENTS

- 4.1 The Contract between Us consists of:
 - (a) any Purchase Order You receive from SCL; and
 - (b) these Terms of Business,
 and if there is any inconsistency between these documents, they will be read in the order of priority as set out above.
- 4.2 No other conditions sought to be imposed by You, either verbally or in writing, prior to or subsequent to the placing of the Purchase Order by SCL apply unless and until such other conditions are specifically accepted in writing by an authorised officer of SCL.

4.3 SCL considers any provision that conflicts with these Terms of Business contained in any prior or subsequent order or communication from You to be material and rejects all such provisions.

5. PRICES

- 5.1 You agree to supply the Goods and Services for the Price.
- 5.2 Subject to **clause 10**, the Price is inclusive of all Taxes excluding GST.
- 5.3 The Price is to be inclusive of all handling, courier and postage fees and stamp duty.
- 5.4 The Price is fixed and is not subject to any adjustment except where:
- (a) a Purchase Order is placed under **clause 3.1**, and increases in the Price are expressly provided for in Your Offer; or
 - (b) a Purchase Order is placed under **clause 3.2**, in which case the Price may vary subject to availability of Goods.
- 5.5 You must immediately notify SCL of any change in the Price. Where You notify SCL of a change to the Price, SCL may cancel the Purchase Order without incurring any cost, penalty or charge.

6. SUPPLY ARRANGEMENTS

- 6.1 You agree to supply the Goods and/or perform the Services in accordance with any:
- (a) specifications or description provided or referenced in a Purchase Order or Your Offer; and
 - (b) relevant Australian standards, laws and regulations; and
 - (c) Policies.
- 6.2 You must comply with:
- (a) Ethical Supplier Threshold;
 - (b) the Safety Legislation and the Environmental Legislation during the Term of each Purchase Order.
- 6.3 You must not supply alternative products to the Goods without SCL's prior written approval.
- 6.4 SCL may, on 30 days notice to You, change the specifications and/or standards applicable to the Goods and/or Services to be supplied by You pursuant to a Purchase Order. Where such change increases or decreases Your costs in supplying the Goods and/or Services, an equitable adjustment will be made to the Price to reflect such increase or decrease in the cost of supply.
- 6.5 The respective periods stipulated for delivery of the Goods and Services are deemed to be of the essence of the Contract.
- 6.6 You:
- (a) will be fully responsible for ensuring that You and Your Staff supply the Goods and perform the Services on the Site safely and in an environmentally responsible manner; and
 - (b) accept responsibility for compliance with the Safety Legislation and Environmental Legislation during the term of each Purchase Order.
- 6.7 If required by SCL, before entering the Site, You must prepare and submit a health & safety plan, a construction safety plan and work method statements to SCL for approval which, as a minimum, must address the issues specified by SCL to You (**Health & Safety Plan**).
- 6.8 If required by SCL, before entering the Site, You must prepare and submit an environmental management plan to SCL for approval which, as a minimum, must address the issues specified by SCL to You (**Environmental Management Plan**).
- 6.9 SCL may, in its sole discretion, accept in writing the submitted Health & Safety Plan or notify You of the reasons for not accepting it. If SCL notifies You that the Health & Safety Plan submitted by You is not accepted, You will amend and resubmit it to SCL for approval within the time set by SCL.

6.10 SCL may, in its sole discretion, accept in writing the submitted Environmental Management Plan or notify You of the reasons for not accepting it. If SCL notifies You that the Environmental Management Plan submitted by You is not accepted, You will amend and resubmit it to SCL for approval within the time set by SCL.

6.11 You acknowledge and agree that:

- (a) SCL is not obliged to check or monitor the Health & Safety Plan, Environmental Management Plan or Your compliance with the requirements of the Safety Legislation or Environmental Legislation;
 - (b) neither SCL's acceptance of a Health & Safety Plan or Environmental Management Plan, anything said by SCL or any of SCL's personnel in relation to a Health & Safety Plan or Environmental Management Plan, nor the random audits referred to in this clause relieves, limits or otherwise affects Your responsibilities under the Safety Legislation, the Environmental Legislation and the Contract;
 - (c) SCL has obligations under the Safety Legislation and the Environmental Legislation;
 - (d) You must (at Your own cost and without any entitlement to any claim of any kind whatsoever) comply with reasonable directions (including stop work directions) given by SCL so as to enable SCL to comply with its obligations under the Safety Legislation and Environmental Legislation;
 - (e) You must (at Your own cost and without any entitlement to any claim of any kind whatsoever) immediately comply with directions regarding safety and the environment as issued by any government, governmental, semi-governmental or other relevant authority;
 - (f) You will supply the Goods and provide the Services in such manner so as not to place SCL in breach of its obligations under the Safety Legislation or Environmental Legislation; and
 - (g) To the extent that any goods are transported in connection with the supply of Goods or performance of Services, You and Your Staff agree to being named as the consignee or consignor (as applicable) on all transport documentation and will take all reasonable steps to ensure that the Principal does not form part of the chain of responsibility to the extent the *Heavy Vehicle National Law Act 2012* (Qld) applies.
- 6.12 You must, and must ensure that Your Staff:
- (a) comply with:
 - (i) all relevant Policies, the Health & Safety Plan, the Environmental Management Plan, SCL's own safety system and SCL's own environmental system; and
 - (ii) comply with all Laws and Standards and Codes relating to the transport of any goods in connection with the supply of Goods or performance of the Services;
 - (b) implement appropriate policies and systems to ensure compliance with requirements regarding vehicle mass, vehicle dimension, load restraint, speed limits, driver fatigue, driving hours and rest periods.
 - (c) attend a Site specific health and safety and environment induction prior to starting work on the Site;
 - (d) ensure that all machinery, tools, plant and equipment used by You and Your Staff are maintained so as to comply with Your obligations under this Contract; and
 - (e) program and co-ordinate the supply of the Goods and the performance of the Services so as to minimise the effect on SCL's business operations.
- 6.13 You must notify SCL as soon as possible after the occurrence on Site of any reportable event under the Safety Legislation or Environmental Legislation including:
- (a) any work related illness, work injury, dangerous event, or serious bodily injury as defined by the *Work Health and Safety Act 2011* (Qld); and

- (b) any serious electrical incident or dangerous electrical event as defined by the *Electrical Safety Act 2002 (Qld)*, and, where requested by SCL, conduct a formal investigation at Your expense in accordance with SCL's incident report system procedures; and
- (c) any environmental harm as defined by the *Environmental Protection Act 1994 (Qld)*.

- 6.14 You must, in relation to the supply of the Goods or the performance of the Services, provide SCL with copies of all notices and correspondence of whatsoever nature concerning the Safety Legislation or Environmental Legislation within 1 business day of the dispatch and/or receipt by You of any such notice or correspondence.
- 6.15 SCL may carry out random audits to ensure that all Services being performed are carried out in accordance with any Policies, SCL's safety system, SCL's environmental system, and the Health & Safety Plan and Environmental Management Plan.
- 6.16 Where SCL give notice requiring You to remove any Staff from working on the Site, You must promptly remove and replace any such Staff with Staff satisfactory to SCL at your own cost.
- 6.17 If, after resubmitting a Health & Safety Plan or Environmental Management Plan to SCL, more than twice under **clause 6.7** or **clause 6.8** respectively, You fail to have Your plan accepted by SCL, this Contract may be terminated by SCL pursuant to **clause 18** and You will have no claim whatsoever against SCL arising from such termination.
- 6.18 You will, on request, provide to SCL a record of the total hours worked by Your Staff on the Site.

7. DELIVERY

- 7.1 The Price is inclusive of the costs of delivery of the Goods and/or Services by You to the Delivery Point, including any packing necessary for the safe, proper and suitable transport and storage of the Goods unless excluded in the relevant Purchase Order.
- 7.2 The Goods must be delivered in good condition and without damage caused by delivery. You must immediately replace any damaged Goods at no additional cost to SCL.
- 7.3 You will provide a detailed delivery docket with every shipment which must contain as a minimum, the following information – SCL's Purchase Order number and Purchase Order item number, date, Your details (including the name and telephone number of the packer), quantity dispatched, item description and part number and details of any items on back order. One delivery docket is to be packed with the Goods, the other is to be enclosed and attached to the outside of the consignment.
- 7.4 All of Your correspondence (including, without limitation quotations, offers and Tax Invoices) must state where packing is returnable and the amount of deposit charges, if any. All returnable packing:
 - (a) must be clearly marked as such;
 - (b) must bear a return address; and
 - (c) will be returned freight forward at SCL's convenience by transport selected by SCL, unless otherwise stated in the relevant Purchase Order.
- 7.5 You will be liable for any difference in freight charges arising from a failure to follow any transport instructions in a Purchase Order or to properly describe the Goods transported.
- 7.6 No deliveries effected outside the normal working hours of SCL will be accepted unless by prior arrangement with SCL.
- 7.7 Unless otherwise agreed, offloading will be carried out by SCL. However, where packing units within a consignment are larger than the Australian Standard pallet size and/or weigh more than 1 tonne, You must make delivery arrangements with SCL at least 2 days prior to delivery.
- 7.8 We will reasonably assist each other in obtaining documents and other information desirable for the prosecution of claims against carriers of the Goods.

8. IMPORT LICENCES

If it is necessary for the performance of the Contract for either of Us to hold or obtain any import licence, consent, by-law exemption or authority then either or both of Us, as appropriate, are obliged to apply for such import licence, consent, by-law exemption or authority. If such licence, consent, by-law exemption or authority is refused then the Contract will be treated as being discharged and neither of Us will be under any liability to the other.

9. INSPECTION AND TESTING

- 9.1 SCL or its designated agent may inspect, test or expedite all work on Goods and Services. You must make this a condition of any sub-contracted work. Any subcontracting by You, and any inspection, testing and expediting done by SCL or its designated agent will not relieve You of any obligations contained in the Contract.
- 9.2 Notwithstanding any prior payment, Goods and Services are subject to inspection and testing by SCL after arrival and unpacking at the Delivery Point. If the Goods are to be installed or incorporated into a plant or premises, such inspection and testing may be carried out after installation or incorporation and under regular operating conditions.
- 9.3 If, upon or after any inspection or test, any Goods or Services are found to be defective or fail to meet the specifications or any other requirements of the Contract, SCL may, at its discretion, return the Goods to You at Your expense or require the rejected Goods to be immediately re-supplied or Services to be re-performed.
- 9.4 Upon return of any unsatisfactory or defective Goods, You must reimburse SCL for any amounts paid by SCL on account of the Price of returned Goods and any reasonable costs incurred by SCL in connection with the delivery or return of the Goods.
- 9.5 All Goods which have been notified to You as rejected are held by SCL at Your risk.

10. TERMS OF PAYMENT

- 10.1 If any Supply made pursuant to or in connection with the Purchase Order is a Taxable Supply, SCL will pay the GST in respect of that Supply to You, where the GST is calculated in accordance with the GST Act.
- 10.2 You will issue SCL a Tax Invoice for Goods and Services supplied on the basis and in the form as advised by SCL from time to time which must:
 - (a) include prices and payments stated and made in Australian dollars;
 - (b) state SCL's Purchase Order number; and
 - (c) show the total amount payable and the GST payable calculated in accordance with the GST Act.
- 10.3 A Tax Invoice shall be forwarded to the address stated on the Purchase Order. Failure to do so may result in delay of payment to You.
- 10.4 SCL will pay You on:
 - (a) the business day immediately following the end of the payment period stated in the relevant Purchase Order, with the payment period commencing when SCL receives your Tax Invoice and the Goods and or Services associated with that Tax Invoice; or
 - (b) if no payment period is stated on the Purchase Order, on the business day immediately following the date which is 30 days from receiving your Tax Invoice and the Goods and or Services associated with that Tax Invoice.
- 10.5 If any Tax Invoice or any part of any invoice is disputed, SCL must pay that part of the invoice (if any) that is undisputed, and the parties must settle the disputed invoice or part in accordance with **clause 20**.
- 10.6 Where SCL's Purchase Order number is not quoted, the Tax Invoice will be returned to You for amendment which may delay payment.

- 10.7 You and SCL acknowledge and agree that each Supply made by You pursuant to or in connection with the Contract is made:
- (a) on a progressive or periodic basis; and
 - (b) for consideration that is to be provided on a progressive or periodic basis,

and each progressive or periodic component of the Supply is to be treated as a separate Supply.

- 10.8 The issue of a payment schedule under the BIF Act will not prejudice or in any way affect any of SCL's rights under this **clause 10** or SCL's ability to assess an invoice submitted by You.

- 10.9 You must immediately give SCL a copy of any notice You receive from, or issue to, a subcontractor or an adjudicator under the BIF Act in connection with the Goods or Services.

- 10.10 You must provide SCL with written notification of any change to the status of Your residency (for Australian tax purposes) within 7 days of such change.

11. WARRANTY

- 11.1 You warrant and represent to SCL:

- (a) the accuracy and correctness of all performance data, measurements, specifications and details quoted in catalogues, brochures, descriptive literature, quotations, offers or tenders subject to the tolerances specified in those documents;
- (b) You have free and unencumbered legal and equitable title to the Goods sold and delivered to SCL; and
- (c) as at the date of the Contract, You are not aware of any actual or threatened claim for infringement of patent, copyright, design or trade mark or for the breach of any obligation of confidence, arising out of the manufacture, sale or use of the Goods or the supply of the Services.

- 11.2 You must promptly notify SCL in writing upon becoming aware of any actual or threatened claim referred to in **clause 11.1(c)**.

- 11.3 You warrant that the Goods supplied, delivered and installed under the Contract will:

- (a) be of good quality suitable and fit for their respective purposes;
- (b) be free from all defects;
- (c) be of the current manufacture and highest grade;
- (d) be delivered in a timely manner;
- (e) comply with the specifications and warranties as provided;
- (f) comply with the Policies, Australian Standards and the law;
- (g) where not manufactured by You, meet the current specifications of the manufacturer of the relevant Good;
- (h) be new unless otherwise agreed with SCL; and
- (i) not infringe any third party intellectual property rights.

- 11.4 You warrant that any Services provided under the Contract will:

- (a) be performed by qualified and trained personnel;
- (b) be performed with due care and skill;
- (c) be fit for the purposes for which those types of services are commonly bought and any other purposes which SCL tells You about;
- (d) comply with the Policies, Australian Standards and the law;
- (e) comply with the specifications and warranties, as provided by SCL;
- (f) not infringe any third party intellectual property rights; and
- (g) be performed in accordance with best industry practice.

- 11.5 Without limiting any other term or Warranty under the Contract, You warrant that all Goods and/or Services You

supply will perform their function, without fault, during Your warranty period or for a period of 12 months from the date the Goods or Services having been accepted by SCL, whichever is longer.

- 11.6 Where a defect in the Goods or Services supplied under the Contract occurs within 12 months of the Goods or Services having been accepted by SCL, or within Your warranty period, whichever is the longer, You will, when called upon to do so by SCL, at Your own cost and with all due diligence, replace at the Delivery Point the defective or damaged Goods or Services with Goods or Services complying with the requirements of the Contract or otherwise make good the damage or defect if convenient to SCL, so that such Goods or Services comply with the Contract.

12. INDEMNIFICATION

- 12.1 Subject to **clause 12.3**, You will indemnify SCL from and against any and all claims, demands, suits, liabilities, causes of action, costs, fines, losses, expenses, damages or penalties, including, without limitation court costs and reasonable legal fees, in respect of injuries (personal or bodily) to any person, or property damage to any property, to the extent arising or resulting from, or caused by:

- (a) the negligence of You or Your Staff;
- (b) defective Goods or Services; or
- (c) any failure by You or Your Staff to comply with the provisions of the Safety Legislation or the Contract.

- 12.2 You agree to extend the benefit of the indemnity in **clause 12.1** to SCL's officers, directors, employees, agents, consultants and representatives.

- 12.3 Your liability in relation to property damage under **clause 12.1** is limited to \$10 million unless otherwise specified in the Purchase Order.

- 12.4 SCL is not liable to You for loss of profits or revenue or for any special, indirect or consequential loss of any kind.

13. INTELLECTUAL PROPERTY

- 13.1 You will pay all royalties and expenses and be liable for all claims in respect of the use of patent rights, trade marks or other protected intellectual property rights for or in connection with any Goods or Services supplied under the Contract, and You will indemnify SCL against all claims which may arise as a result of the use of these.

- 13.2 SCL will indemnify You against claims arising from infringement of patent rights, trade marks or other protected intellectual property rights, where such infringement results from compliance by You with SCL's instructions in relation to designs prepared by SCL.

- 13.3 SCL will own and You assign to SCL the intellectual property rights in material created by You in the process of or for the purpose of providing the Services (including design documents, drawings and software) and in any deliverables to be provided by You under the Contract.

14. CONFIDENTIALITY, PRIVACY AND DATA SECURITY

- 14.1 If You collect or obtain any Confidential Information in the course of carrying out the Services or Supplying the Goods, You must:

- (a) only use that Confidential Information for the purpose for which it was collected or provided;
- (b) have in place adequate Security Measures to protect the Confidential Information against Data Security Breaches
- (c) in relation to any personal information (as defined in the *Privacy Act 1988* (Cth)) provided or otherwise made available by Us, comply with the Privacy Requirements as though they are binding on You; and
- (d) promptly return any Confidential Information upon termination of the Contract or when otherwise notified to do so by Us.

- 14.2 You must:

- (a) upon request, provide evidence of Your compliance with clause 14.1;
 - (b) implement any additional Security Measures reasonably requested by Us from time to time; and
 - (c) comply with Our reasonable requests concerning that Confidential Information.
- 14.3 You must, if You become aware of a Data Security Breach, or an actual or attempted circumvention of any of Your Security Measures:
- (a) notify Us immediately; and
 - (b) comply with all reasonable requests from Us concerning that Data Security Breach or circumvention.
- 14.4 SCL may need to collect personal information (as defined in the *Privacy Act 1988* (Cth)) about You or Your Staff to create a supplier account. SCL can only process Your invoices once this account has been correctly set up.
- 14.5 SCL will not disclose personal information about You or Your Staff to any external parties unless the:
- (a) disclosure is required by law (eg the Australian Tax Office);
 - (b) disclosure is authorised by law (eg to protect our interests or where we have a duty to make such disclosure); or
 - (c) You have consented for SCL to disclose the information about You.
- 14.6 You and Your Staff may access any personal information held by SCL in accordance with the *Privacy Act 1988* (Cth). To obtain access please write to: - The Privacy Officer, Stanwell Corporation Limited, Level 3 180 Ann Street Brisbane GPO Box 800 Brisbane Qld 4001. SCL's Privacy Policy can be viewed at "www.stanwell.com".

15. RISK AND PROPERTY IN GOODS

- 15.1 Subject to **clause 15.3**, risk in the Goods and Services remains with You and does not pass to SCL until the Goods are delivered to, inspected by and accepted by SCL at the Delivery Point. The signing or acknowledgement of receipt of the Goods does not constitute acceptance of the Goods by SCL.
- 15.2 SCL will be deemed to have inspected and accepted the Goods when SCL puts the Goods to their ordinary and intended use (other than for testing under **clause 9**).
- 15.3 Where SCL selects and contracts directly with a transporter of the Goods, then if stated in a Purchase Order, risk in the Goods will pass to SCL immediately after the goods have been loaded onto the transporter's vehicle.
- 15.4 Title in the Goods delivered passes to SCL at the same time risk passes under **clause 15.1** or **15.3** as applicable, regardless of whether all amounts have been paid by SCL to You.
- 15.5 Where You supply replacement Goods, risk and title in the replaced Goods passes to SCL upon replacement.
- 15.6 Where Goods have either been lost or damaged in transit while at Your risk, You will immediately take all necessary action to either replace the Goods or arrange repairs, whichever is mutually acceptable to Us. SCL will sign all carriers' delivery documentation 'subject to check' and is responsible for notification to You within 3 days of receipt, in the case of damage, or 10 days from receipt of advice, in the case of loss in transit.

16. INSURANCE

You must hold all insurances that a prudent supplier of the Goods and/or Services would hold, including without limitation a comprehensive public and products liability insurance providing cover in respect of each and every claim to an amount of not less than \$20 million or as otherwise specified in a Purchase Order.

17. CANCELLATION

- 17.1 SCL will notify You in writing if it wishes to cancel a Purchase Order and terminate the Contract.
- 17.2 You must notify SCL in writing of any reasonable cancellation charges You wish to impose within 2 Business Days of SCL giving You notice of its wish to cancel and terminate.
- 17.3 If SCL then proceeds to cancel the Purchase Order and terminate the Contract (which it may do by written notice), SCL agrees to pay such cancellation charges provided, in SCL's reasonable opinion, they represent the genuine loss incurred by You through the cancellation of the Purchase Order.

18. TERMINATION

- 18.1 If either of Us breaches the Contract in a material way, the other may give notice requiring the breach to be remedied within 30 days. If the breach is not so remedied, the party serving the notice may serve a further notice terminating the Contract with immediate effect.
- 18.2 On termination of the Contract for any reason, each of Us will return any property of the other (including any confidential information). However, We may each retain one copy of any documentation or software related to the Services or Goods.
- 18.3 Either of Us may immediately terminate the Contract by written notice if the other party has a receiver, administrator, administrative receiver or liquidator appointed, or calls a meeting of its creditors or is unable to pay its debts as they fall due or for any other reason ceases to carry on business, or if any of these events appear reasonably likely to occur.
- 18.4 **Clauses 11.5, 11.6, 12, 13, 14, 22.6** and **22.9** survive termination or expiry of the Contract.

19. FORCE MAJEURE

- 19.1 Neither of Us will be held liable for breach of contract or any losses, damage or injury incurred to the other wherever performance of the Contract is prevented by circumstances which are deemed to be outside Your or SCL's reasonable control ('**Force Majeure Circumstances**').
- 19.2 In the event that either party is unable wholly or in part to perform its obligations under the Contract as a result of the occurrence of Force Majeure Circumstances, such party will immediately give notice to the other of the details of such occurrence, and both parties will make arrangements and adjustments to the Contract as necessary. Unless otherwise agreed in writing, upon cessation of the Force Majeure Circumstances, both parties must, as far as practicable, complete performance of their respective obligations under the Contract.

20. DISPUTE RESOLUTION

- 20.1 Any disputes will be settled by Us in good faith. Before resorting to external dispute resolution mechanisms, We must attempt to settle any dispute under the Contract by negotiation, using the procedure in this **clause 20**.
- 20.2 We must initially refer any dispute for resolution to a representative nominated by You, and a representative nominated by SCL, who will endeavour to resolve the dispute within 14 days.
- 20.3 If We can not resolve the dispute under **clause 20.2** within 14 days of referral, then the dispute must be referred for resolution to a senior executive nominated by You and a senior executive nominated by SCL.
- 20.4 If We can not resolve the dispute under **clause 20.3** within 14 days of referral, then either of Us may resort to external dispute resolution mechanisms.
- 20.5 Despite the foregoing, either of Us may commence court proceedings relating to any dispute arising under the Contract at any time where a party seeks urgent interlocutory relief.
- 20.6 SCL may raise such defence or matters as it sees fit in response to any dispute raised by You under this **clause 20** and will not be bound by the matters contained in any payment schedule under the BIF Act.

21. SERVICE OF NOTICES AND PURCHASE ORDERS

- 21.1 Unless otherwise specified in the Contract, any notice given under the Contract must be in writing and may be served by either of Us on the other by hand delivery or pre-paid post to the address of the other or by email to the other's nominated email address (which for SCL will be notices@stanwell.com). Notices will be deemed served:
 - (a) if by hand delivery, when it is delivered;
 - (b) if by pre-paid post, on the fifth business day after posting (seven if posted to or from a place outside Australia);
 - (c) if by facsimile, on receipt by the sender of a transmission report by the machine from which the facsimile is sent, indicating that the facsimile was sent in its entirety to the facsimile number of the recipient; and
 - (d) if by email, when the sender receives an automated message confirming delivery.

All claims issued under the BIF Act must be served on SCL, Marked "BIF Act Payment Claim SCL [contract number]", by email to claims@stanwell.com and otherwise in accordance with **clause 21.1**. With a copy forwarded by email to SCL's nominated representative.

- 21.2 All notices by You regarding termination, SCL's breach or default under these Terms of Business or dispute resolution must be sent by email to: notices@stanwell.com.

22. GENERAL

- 22.1 No amendment to the Contract has any force unless it is in writing and signed by both of Us.
- 22.2 Neither of Us may assign nor purport to assign the Contract or any right under the Contract without the prior written consent of the other, such consent may not be unreasonably withheld.
- 22.3 The covenants, conditions, provisions and warranties contained in the Contract do not merge or terminate upon completion of the transactions contemplated in the Contract but, to the extent that they have not been fulfilled and satisfied or are capable of having effect, remain in full force and effect.
- 22.4 Unless otherwise stated in the Contract, the Contract constitutes the entire agreement between Us as to its subject matter and supersedes and cancels all prior arrangements, understandings and negotiations in connection with it.
- 22.5 We must do all things and execute all further documents necessary to give full effect to the Contract and refrain from doing anything that might hinder the performance of the Contract.
- 22.6 Each Contract is governed by the laws of Queensland and the Commonwealth of Australia and both of Us irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland.
- 22.7 Any part of the Contract that is held to be unlawful or unenforceable by a court of competent jurisdiction is severed from the Contract and the remaining provisions will continue to operate.

- 22.8 Neither of Us will be taken to waive any right under the Contract except if the waiver is given in writing and is signed.
- 22.9 Each indemnity given by a party under the Contract is a continuing obligation, separate and independent from the other obligations of that party under this Contract. It is not necessary for a party to incur expense before enforcing the benefit of an indemnity under the Contract.
- 22.10 SCL may exercise a right, remedy or power in any way it considers appropriate.
- 22.11 No comment, review, representation, vetting, inspection, testing, acceptance or approval by SCL in respect of the Goods or Services or Your obligations under the Contract will lessen or otherwise affect Your obligations under the Contract.
- 22.12 In determining Your entitlement to any payment under this Contract, SCL may withhold, retain or set off from any amount claimed by You under the Contract or from any payment due to You under the Contract, any amounts which SCL deems necessary to protect it against any costs, charges, expenses or damages for which You may be liable to SCL under or in connection with the Contract. This right to withhold, retain or set off does not limit SCL's right to recover those amounts in any other way.
- 22.13 SCL's rights, remedies and powers under the Contract are in addition to any rights, remedies and powers provided by law.

23. INTERPRETATION

In the Contract, except to the extent the context otherwise requires:

- (a) the singular includes the plural and vice versa and a gender includes other genders;
- (b) a reference to a party is to be construed as a reference to a party to the Contract;
- (c) a reference to a party to the Contract or any other document or agreement includes its successors and permitted assigns;
- (d) a reference to a clause, schedule, annexure or appendix is a reference to a clause of or schedule, annexure or appendix to the Contract and references to the Contract include its schedules and any annexures;
- (e) where a word or phrase is given a particular meaning, other parts of speech or grammatical forms of that word or phrase have corresponding meanings;
- (f) a reference to a document or agreement, including the Contract, includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time; and
- (g) in the interpretation of the Contract, headings are to be disregarded.

You agree that You will supply the Goods and Services in accordance with these Terms of Business and any Purchase Order issued by SCL from time to time.

Name: _____

Position: _____

Supplier's Name: _____

Signature _____

for and on behalf of Supplier