

1. GENERAL AND DEFINITIONS**1.1 GENERAL**

- (a) The Company wishes to acquire, the Supplier agrees to provide the Goods or Services (or both) in accordance with the Purchase Order and these terms and conditions (**Terms and Conditions**), which together constitute the contract (**Contract**).
- (b) In the event of any inconsistency, conflict, ambiguity or discrepancy between any special terms set out in the Purchase Order and these Terms and Conditions, any special terms set out in the Purchase Order will take precedence.
- (c) The Supplier acknowledges that these Terms and Conditions may be updated between orders without notice to the Supplier, and any new terms or alterations to existing terms will apply to a new Purchase Order.
- (d) The execution of a Purchase Order or performance of the Supplier's Obligations under a Purchase Order will constitute acceptance by the Supplier of these Terms and Conditions.
- (e) No terms or conditions submitted by the Supplier (including in any form of tender, quote, purchase order, correspondence, order acknowledgement, acceptance or other instrument), that are in addition to or inconsistent with those contained in the Contract, will bind the Company unless agreed to in writing by the Company and the Supplier

1.2 DEFINITIONS

In the Contract the following terms shall bear the following meanings:

Affected Party means any Party which is prevented by a Force Majeure Event from carrying out its obligations under the Contract.

Business Day means a day on which trading banks are open for business in Perth, Western Australia excluding Saturday, Sunday and designated public holidays.

Claim means any claim, action, suit, demand, proceeding, notice, litigation, investigation or judgment and any actual or alleged entitlement or right howsoever arising, whether present, unascertained, immediate, future or contingent and whether based in contract, arising at common law, in equity or under any Law.

Commencement Date means the date of the Purchase Order, unless an alternative date is specified in the Purchase Order.

Company means Delta Lithium Limited and/or its subsidiaries as stated on the Purchase Order.

Commissioning or Commissioned includes checking the operational availability of each item, checking all manual and automatic contacts and interlocks, no-load commissioning, full load-commissioning, testing to demonstrate performance in accordance with the Specifications and any other actions which are described in the Purchase Order or any attachments or annexure to the Purchase Order and forming part of the Contract as being part of Commissioning.

Confidential Information means all information and materials disclosed, provided or otherwise made accessible to the Supplier or its Related Bodies Corporate, directly or indirectly, in connection with the Contract, the Supplier's Obligations under the Contract or the Project, whether before or after the Commencement Date (including in connection with any tender process) and including the Contract (and the existence of the Contract), policies, services, processes, procedures, methods, formulations, facilities, products, plans, affairs, transactions, organisations and business connections of the Company and its Related Bodies Corporate, but excludes information that the Supplier can prove:

- (a) was in the public domain at the date the Company made it available to the Supplier;
- (b) subsequent to the date the Company made it available to the Supplier, became part of the public domain otherwise than as a result of disclosure by the Supplier or the Supplier's Personnel or other person directly or indirectly in breach of the Contract or any other obligation of confidentiality; or
- (c) was in the Supplier's possession at the time of disclosure by the Company to the Supplier or its Personnel and was not otherwise acquired from the Company directly or indirectly.

Consequential Loss means:

- (a) any indirect, consequential or special damages or losses;
- (b) loss of profit, loss of contract, loss of revenue, loss of goodwill, loss of business opportunities, cost of capital and damage to reputation; or
- (c) cost, expenses, loss or damage that are not a direct consequence of the breach,

howsoever arising and whether or not a party knew or should have known of, or foreseen, the possibility of such loss or damage at the Commencement Date.

Contract has the meaning given in Clause (a).

Corporations Act means the *Corporations Act 2001* (Cth).

Defects Liability Period means the period commencing on the later of the Delivery Date or the actual date of delivery of the Goods and ending 12 months later.

Delivery Date means the date on which:

- (a) in respect of Goods, the Goods must be delivered and (if applicable) Commissioned; and
- (b) in respect of any Services, the Services must be completed and the Supplier must have demobilized all Supplier Personnel and its equipment from Site as required under the Contract (as applicable).

Delivery Point means the delivery point or delivery points specified in the Purchase Order, or as otherwise agreed to by the Parties.

Delivery Terms means any delivery instructions specified in the Purchase Order and in clause 5.2 or any other reasonable delivery terms notified to the Supplier by the Company from time to time.

Force Majeure Event has the meaning given in clause 12.1.

Good Operating Practices means the practices, methods and acts used by a supplier who is in the performance of service exercises that degree of diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced suppliers engaged in the same type of services in similar conditions as contemplated under the Contract.

Goods means the goods, materials, equipment, supplies or other items supplied by the Supplier under the Contract.

Government Agency includes any federal, state, territory or local government, or any ministry, department, court, commission, board, agency, instrumentality, political subdivision or similar entity.

Government Authorisations means all approvals, consents, authorisations, permits, clearances, licences or other requirements that are required by or from any Government Agency for the Supplier to perform its obligations under the Contract.

GST, input tax credit, supply and tax invoice have the meaning as set out under the GST Law.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any related act imposing such tax or legislation that is enacted to validate, recapture or recoup such tax, and includes any subordinated legislation in respect of those acts.

Indemnitees means the Company and its Directors, officers, employees, agents and contractors (other than the Supplier and Supplier Personnel).

Invoice is defined in clause 4.2.

Law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instrument under them, and consolidations, amendments, re-enactments or replacement of any of them).

Liability means liability, loss, damage (of any nature including aggravated and punitive), cost, Claim, suit, charge, diminution in value action, statutory or equitable compensation, demand, expense or proceeding or loss of any nature and of any kind whatsoever whether present or future, actual, contingent or prospective and whether known or unknown, and howsoever arising including under any Law or Government Authorisation.

National Police Clearance means a form completed and reviewed by the Australian Federal Police.

Parties means the Company and the Supplier.

Personnel means the directors, officers, employees, suppliers, contractors and agents of the Supplier or Company or their respective Related Bodies Corporate (as the context requires).

PPSA means the *Personal Property Securities Act 2009* (Cth) and any regulations made pursuant to it.

Price means the price payable to the Supplier to meet its obligations as specified in the Purchase Order. **Project** means the Company's mining projects located in Western Australia.

Purchase Order means a document issued by the Company outlining the Supplier's Obligations in accordance with these Terms and Conditions.

Purchase Order Number means the number assigned to the Purchase Order by the Company.

Related Body Corporate has the meaning given in the Corporations Act.

Security Interest means any security interest, assignment by way of security, mortgage, charge (whether fixed or floating), hypothecation, deposit arrangement, pledge, trust, lien, encumbrance, preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever, and includes any other "Security Interest" as defined in Section 12(1) or 12(2) of the PPSA.

Services means those services to be provided by the Supplier as described in the Purchase Order.

Site means any of the sites occupied by the Company stated on the Purchase Order.

Specifications means the specifications of the Goods or Services, or both (as applicable) as provided in the Purchase Order.

Supplier has the meaning ascribed to the term in the Purchase Order, being the person, firm or company named in the Purchase Order as the Supplier.

Supplier's Obligations means the provision of Goods or Services, or both (as applicable), under the Contract.

Supply means the supply of Goods or Services, or both (as applicable), under the Contract.

Supplier Personnel means any and all persons engaged or used by the Supplier (including its directors, officers, employees, agents, consultants and sub-contractors) or any of its sub-contractors) including directors, officers, employees, agents or consultants of any sub-contractor) in performing the Supply and/or any of the Supplier's other obligations under the Contract.

Taxable Supply has the meaning given in the GST Law.

Taxes includes all taxes, fees, levies, duties and charges imposed or assessed in respect of the Goods under the Contract by all local, state or national government authorities including income tax (including withholding for prescribed payments or group tax), payroll tax, statutory superannuation contributions and workers' compensation payments and contributions, sales tax, customs duty, excise tax, and stamp duty but does not include GST.

Term has the meaning given in clause 3.

Third Party Claim means any Claim in respect of:

- (a) loss or destruction of, or injury or damage to, or loss or use of any real or personal property; or
- (b) any personal injury or death of a person arising out of or caused by the supply or non-supply of the Supplier's Obligations by the Supplier.

Variation means a change in any part of the Supplier's obligations to provide the Supply, but does not include any change in the Supplier's obligations under the Contract arising from:

- (a) a reasonable direction made by the Company regarding the Supplier's performance of its existing obligations under the Contract; or
- (b) any matters expressed to be at the Supplier's own cost.

2. SUPPLIER'S OBLIGATIONS

2.1 GENERAL

The Company appoints the Supplier by the issue of a Purchase Order, and the Supplier accepts the appointment, to supply the goods and/or services to the Company on a non-exclusive basis during the Term and on the terms and conditions of the Contract. In performing the Supply, the Supplier shall (and shall ensure that Supplier Personnel and any approved sub-contractors):

- (a) act in a skillful, diligent, workmanlike, careful, safe and proper manner;
- (b) comply with any applicable laws, regulations, by-laws and orders and with the lawful requirements of public, municipal and other authorities affecting or applicable to the Contract and/or the Supply;
- (c) act in accordance with Good Operating Practices;
- (d) use equipment and materials of merchantable quality and fit for their use or intended use;
- (e) use only Supplier Personnel to perform the Supply who have the required levels of skill, experience, competence and, where necessary, qualifications;
- (f) obtain and maintain at its cost all approvals, permits and licenses necessary or desirable for it and each of its Supplier Personnel to perform the Supply;
- (g) comply with the Company's applicable policies and procedures as amended from time to time and as provided to the Supplier; and
- (h) provide a safe system of work for all Supplier Personnel and, where applicable, the Company's personnel.

2.2 SUPPLIER PERSONNEL

- (a) This clause 2.2 applies if any part of the Supply is to be performed by the Supplier or any Supplier Personnel at the Site.
- (b) The Company may at any time by notice in writing to the Supplier require that the Supplier should cease to permit a particular person or persons employed by it to be engaged in performing the Supply for the Company, and in such event the Supplier shall as soon as is practicable cease to provide the services of such person or persons in or about the Company's business, or at any Site, and shall provide the services of such alternative persons or persons as may be acceptable to the Company.
- (c) Where the Company has appointed a registered manager for the Site (under the Mines Safety and Inspection Act 1994 (WA)):
 - (i) the Supplier must ensure that Supplier Personnel, third parties and visitors to the Site are aware of and comply with:
 - (A) a requirement of zero BAC (blood alcohol concentration) limit and minimal drug level concentrations at the Site; and
 - (B) the Site's random and "for cause" drug and alcohol testing program;
 - (ii) the Supplier must ensure that Supplier Personnel, third parties and visitors to the Site seek permission before entering the property of landowners on and surrounding the Site, that gates are left as found, and that stock and water sources are not interfered with; and
 - (iii) the Principal may require the Supplier, at the Supplier's cost, to obtain a police clearance for nominated Supplier Personnel, third parties and visitors where the nature of the attendance at the Site justifies an enquiry into a person's criminal record.

2.3 SUBCONTRACTING

The Supplier must not subcontract the whole or any part of the Supply unless it first obtains the written consent of the Company. Subcontracting does not relieve the Supplier from any of its obligations under the Contract.

2.4 COMPANY DIRECTIONS AND APPROVALS

- (a) The Company may from time to time issue directions to the Supplier in connection with the Supply or the Contract. The Supplier must in a timely manner (and ensure that all Supplier Personnel also):
 - (i) comply with any direction of the Company's registered manager of the Site (appointed under the *Mines Safety and Inspection Act 1994 (WA)*) relating to the safety of persons or property, or to the proper compliance with any laws which it is the registered manager's duty to enforce. In this regard the

registered manager's decision will be final and any instructions he may give must be obeyed in the manner he directs; and

- (ii) otherwise comply with all reasonable directions of the Company. If the Supplier thinks any direction is unreasonable or wrong it must promptly convey this to the Company.
- (b) Unless the Contract expressly provides otherwise, the Supplier shall have no additional entitlement to compensation as a consequence of any such direction.
- (c) Any direction or approval given by the Company to the Supplier in respect of the Supply or the Company shall not in any way reduce or lessen, or constitute an assumption by the Company of, any of the Supplier's duties, obligations or liabilities incurred or arising under the Contract except to the extent expressly stated in, or necessarily arising from, the direction or approval.
- (d) The Supplier acknowledges that the Company is relying on the skill and expertise of the Supplier and the Supplier Personnel in relation to the provision of the Supply and that any direction or approval given by or on behalf of the Company does not (and will not) alter that reliance.

2.5 VARIATIONS

- (a) The Company may, at any time, request a Variation to the Supply provided under the Contract by written notice to the Supplier (**Variation Notice**).
 - (b) Within 5 Business Days of receiving the Variation Notice, the Supplier must advise the Company in writing of:
 - (i) any proposed addition or reduction to the Price in carrying out the proposed Variation, including any delay or disruption costs connected with the Variation; and
 - (ii) the proposed impact the Variation will have on the Supplier providing the Supply by any dates specified for completion.
- If:
- (c) The Company does not accept the Supplier's proposed change to the Price or any dates specified for completion due to the proposed Variation; and
 - (d) the Parties are unable to agree on the change to the Price or any dates specified for completion within 5 Business Days after the Supplier's informs the Company of the estimated impact of the Variation under clause 2.5(b),
 - (i) The Company must advise the Supplier whether it wishes to proceed with the Variation detailed in the Variation Notice. If the Company:
 - (ii) confirms in writing to the Supplier that it wishes to proceed with the Variation, the Contract will be amended by the terms of the Variation agreed by the parties; or
 - (iii) fails to confirm in writing to the Supplier that it wishes to proceed with the Contract or advises that it does not wish to proceed with the Variation, the terms of the Contract will remain unaltered.

2.6 SUSPENSION OF SUPPLY

- (a) The Supplier must:
 - (i) suspend the whole or any part of the Supply on receipt of notice from the Company (which notice must specify that it is given pursuant to this clause 2.6) to do so; and
 - (ii) do all things possible to reduce any expense or cost consequent upon the suspension.
- (b) A suspension will not affect the validity of the Contract. Unless the Contract expressly states otherwise, the Company must pay the Supplier all reasonable costs arising from any suspension of the Supply pursuant to this clause 2.6 unless the suspension is caused by an act or default of the Supplier. The suspension will not vitiate the Contract.

3. TERM

Subject to any earlier termination provided for under the Contract, the term commences on the Commencement Date and ends on the date prescribed in the Purchase Order (**Term**).

4. PRICING AND PAYMENT**4.1 PRICE**

- (a) The Company will pay the Supplier the Price after the Supplier has met its Supplier's Obligations. Prices are in Australian dollars (unless stated otherwise).
- (b) Unless expressly stated otherwise in the Purchase Order, the Price will be fixed for the Term and shall not be subject to rise and fall.

4.2 INVOICE AND PAYMENT

- (a) The Supplier must provide the Company with an invoice to support the payment of the Price, no earlier than on completion of the Services or upon delivery and acceptance of the Goods as set out in clause 5.2 (as applicable), provided that if the Company agreed to make a partial or full upfront down-payment, the invoice must reflect the amount agreed upfront. The invoice must be in a form acceptable to Company, and must, at a minimum, contain the following information:
 - (i) the Purchase Order number;
 - (ii) a brief description of the Supplier's Obligations (quantities, dates and locations supplied);
 - (iii) any further information stipulated in any applicable GST legislation, or by the Company, so that the Company will receive the benefit of any input tax credits in relation to the supply of the Goods; and
 - (iv) such other information as may be reasonably required by Company.
- (b) Subject to clauses 4.3(a),(c) and (d), payment will be made by the Company within 30 calendar days from the end of the month of receipt of a validly issued Tax Invoice.
- (c) Any amounts due by the Company to the Supplier under the Contract may be set off against any amounts due to the Company from the Supplier.
- (d) Unless otherwise agreed, all payments to be made pursuant to the Contract shall be made by deposit to a bank account in Australia nominated in writing by the intended recipient of the payment.

4.3 DISPUTE

If the Company disputes any amount shown on an invoice, it must notify the Supplier within 21 days of receipt of the invoice and must pay any amounts not in dispute in accordance with clause 4.2, provided that the payment by the Company of any amount the subject of a disputed invoice is not to be considered as an acceptance of the amount in dispute or of the Company's liability to make that payment.

5. OBLIGATIONS REGARDING GOODS**5.1 GOODS**

- (a) The Goods which the Supplier sells and delivers to the Company under the Contract must:
 - (i) meet the Specifications of Goods;
 - (ii) be of merchantable quality and fit for any purpose held out by the Supplier or made known to the Supplier by the Company;
 - (iii) be of good and marketable title such that the Company will receive title to the Goods free of any charge or encumbrance;
 - (iv) be free from defects in design, material and workmanship and remain so for the duration of the Defects Liability Period; and
 - (v) comply with all applicable Laws and Government Authorisations.
- (b) Acceptance of delivery does not constitute acknowledgement by the Company as to the condition of the Goods or compliance with the Contract.
- (c) If any Goods do not comply with the Specifications of Goods then, without limiting any other right or remedy that the Company may have, the Company may reject those Goods and require, at its sole election:
 - (i) the Supplier to repair or replace the rejected Goods at the Supplier's cost and expense, which must

be done as soon as reasonably practicable; or

- (ii) the Supplier to repay the price of the rejected Goods in full, and claim damages for any other costs, expenses or losses resulting from the Supplier's provision of Goods that are not in conformity with the terms of the Contract.
- (d) If the Supplier fails to promptly repair or replace rejected Goods in accordance with clause 5.1(c), the Company may, without affecting its rights, obtain substitute goods from a third party supplier, or have the rejected Goods repaired by a third party, and the Supplier will reimburse the Company for the costs it incurs in doing so.

5.2 DELIVERY

- (a) The Supplier must immediately notify the Company of the date and time of each dispatch of Goods, and include the Purchase Order Number, the quantity and description of the Goods dispatched, and the expected date and time of arrival at the Delivery Point.
- (b) Delivery of Goods is complete when the Goods have been delivered and unloaded at the Delivery Point and received by the Company or its agent as evidenced by the receipt signed by the Company or its agent.
- (c) The Goods must be delivered in accordance with the Delivery Terms and the other relevant terms and conditions of the Contract.
- (d) The Goods must be delivered by the Delivery Date during the opening hours of the Site or other location which is the Delivery Point.
- (e) All goods must be packed, marked and transported as specified in the Delivery Terms and in accordance with requirements pertaining to transportation of dangerous goods (where applicable) and industry best practice.
- (f) The Supplier shall ensure that the Goods are adequately protected from damage and deterioration during shipment and short term storage having due regard for the conditions and environment at the Site or other location which is the Delivery Point and areas through which the Goods will traverse, to include climate, roads, and requirement for multiple handling. In packaging, marking and transporting the Goods, the Supplier must abide by applicable international and national Laws regarding the transportation of Goods and the protection of safety, health and the environment.
- (g) All hazardous goods must be clearly labelled. If the Goods include or constitute dangerous, hazardous or toxic items, the Supplier must include Safety Data Sheets and clearly mark or label the Goods with appropriate information, provide necessary shipping certification and otherwise comply with all applicable Laws and Governmental Authorisations and requirements of the Company. Costs arising from failure of the Supplier to follow proper packaging, marking and transporting procedures and instructions as specified in the Purchase Order shall be for the account of the Supplier.
- (h) If the Goods are not delivered by the Delivery Date, then, without limiting any other right or remedy the Company may have under the Contract, at law or in equity, the Company may:
 - (i) refuse to take any subsequent attempted delivery of the Goods;
 - (ii) cancel the relevant Purchase Order without liability to the Company and obtain substitute goods from a third party supplier and recover from the Supplier any costs and expenses reasonably incurred by the Company in obtaining such substitute goods; and
 - (iii) claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver the Goods on the Delivery Date provided that the Supplier will have no liability for any failure or delay in delivering the Goods to the extent that such failure or delay is caused by the Company's failure to comply with its obligations under the Contract.
- (i) All Goods received in excess of Purchase Order requirements will be subject to return for credit at the Supplier's cost.

5.3 DEFECT LIABILITY PERIOD

- (a) Upon receipt of a notice from the Company of any defect or deficiency in the Goods during the Defects Liability Period, the Supplier must redesign, repair or replace the affected items or parts at no cost to the Company prior to the expiration of the time specified in the notice and such rectification work will be subject to a separate and additional Defects Liability Period commencing from the notification by the

Company of acceptance of the work of rectification and extending for 12 months.

- (b) If the Supplier fails to make the necessary redesign, repair or replacement to the Goods within the time specified, the Company may perform or cause to be performed such redesign, repair or replacement at the Supplier's risk and expense and any costs and expenses incurred by the Company will be recoverable from the Supplier as a debt due and payable.

6. OBLIGATIONS REGARDING SERVICES AND SITE ATTENDANCE (WHERE APPLICABLE)

- (a) In providing the Services, and if the provision of the Supplier's Obligations includes attendance at Site, the Supplier must, and must ensure that its Personnel:
- (i) perform the Supplier's Obligations to the highest standards of diligence, skill and care normally exercised by similarly qualified and competent Personnel and with due expedition, supervision and expertise in accordance with the terms of the Contract;
 - (ii) at its, or their cost, obtain all Government Authorisations required to perform the Supplier's Obligations and comply with the Contract (other than any Government Authorisations related to the overall Project or the Site in general);
 - (iii) strictly comply with all Laws and Government Authorisations;
 - (iv) strictly comply with the Company's policies, including those relating to Site access, drugs & alcohol, health, safety & the environment and working on site requirements, including providing a National Police Clearance (less than six months old), for all its Personnel who attend site, if requested by the Company;
 - (v) except for any facilities agreed in writing to be provided by the Company, provide all facilities, equipment, goods and material necessary for the proper performance of the Supplier's Obligations;
 - (vi) immediately notify the Company of any health, environmental or safety incident and must make available to the Company all relevant records, documents and personnel as the Company may request to allow the Company to carry out a full investigation of any such incident.
- (b) The Company may inspect the contents of any vehicle entering, leaving or within the Site at any time.
- (c) The Company reserves the right to at any time to request a detailed list of the Personnel the Supplier intends to provide for the performance of the Services. The Company reserves the right at its sole discretion to request that the Supplier replace any Personnel, including the representative of the Supplier, who in the opinion of the Company, is not performing in a manner that ensures the due performance and completion of the Services. The Supplier shall bear all costs associated with the change or replacement of its Personnel.
- (d) The Company may from time to time impose restrictions on access to any Site and limitations on possession of parts of the Site in its sole discretion.

7. RISK AND TITLE

- (a) Risk in the Goods will pass to the Company once the Goods have been delivered to, and accepted by, the Company at the Delivery Point.
- (b) Title in the Goods will pass to the Company upon payment for the Goods unless the Goods are consumed or incorporated into the Company's facilities or infrastructure prior to payment in which case title will pass at the time that this occurs.

8. CANCELLATION OF GOODS

- (a) The Company may cancel a Purchase Order in whole or in part by giving written notice to the Supplier indicating the date of cancellation (**Cancellation Date**).
- (b) As of the Cancellation Date:
- (i) the Supplier must:

- (A) cease the manufacture and supply of the Goods and all other work related to the supply of the Goods;
 - (B) not place any further orders or commitments; and
 - (C) take all action in relation to the cancellation that the Company may reasonably require;
- (ii) to the extent the Goods are standard or stock items and are not yet delivered or in transit, the Company will have no further obligation to the Supplier; and
- if the Goods are manufactured exclusively for the Company and have been delivered or are in transit or are in the process of being manufactured, the Company must pay the Supplier all reasonable costs and expenses incurred as a result of cancellation (as reasonably determined by the Company), provided that:
- (A) the Supplier must make all reasonable efforts to mitigate all costs and expenses incurred as a result of the cancellation;
 - (B) the Supplier is not entitled to claim for any profit, or loss of profit or any damage or other Claim arising as a result of the cancellation; and
 - (C) in no circumstance will the amount owed by the Company be greater than the Price that would have been payable had the cancellation not been made and the Goods delivered.

9. GOODS AND SERVICES TAX

9.1 GOODS PRICE GST EXCLUSIVE

Unless otherwise expressly stated in the Contract, the Goods Price is exclusive of GST.

9.2 GST ON SUPPLY OF GOODS

If GST is imposed in relation to any Supply under the Contract by one Party to another, the Party receiving the Supply (**Recipient**) must pay the amount imposed to the Party providing the Supply (**Provider**) at the same time as the Party is required to pay the Provider for the Supply in question, provided that the Provider issues a valid Tax Invoice to the Recipient:

- (a) within 7 days after the occurrence of the event that causes the GST liability of the Provider on any taxable Supply to the Recipient to be attributed to a particular tax period (and the Recipient is not required to make any payment for GST until the Recipient has received a valid Tax Invoice from the Supplier); or
- (b) in the case of the provision of Goods by the Supplier, in accordance with the invoice requirements in clause 4.2.

9.3 ADJUSTMENT EVENT

If there is an Adjustment Event in relation to a supply that results in the amount of GST on a supply being different from the amount in respect of GST recovered by the Supplier, the Supplier:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount recovered; and
- (b) must refund to the recipient the amount by which the amount recovered exceeds the amount of GST on the supply.

9.4 GENERAL

Words used in this clause 9 which have a defined meaning in the GST Law have the same meaning as in the GST Law unless the context otherwise indicates.

10. SUSPENSION

10.1 SUSPENSION BY THE COMPANY

The Company may suspend performance of all or any portion of the Supplier's Obligations at any time by providing written notice to the Supplier (**Suspension Notice**). Upon receipt of a Suspension Notice, the Supplier must:

- (a) cease performance of the Supplier's Obligations to the extent specified in the notice and on the date and time specified in the Suspension Notice; and

- (b) take such other action as is specified in the Suspension Notice or as may be necessary to minimise costs associated with the suspension.

Upon receipt of a written notice from the Company to resume the Supplier's Obligations, the Supplier must resume performance of the Supplier's Obligations as specified in such notice as soon as is reasonably practicable.

10.2 SUSPENSION BY THE COMPANY

Provided that:

- (a) the Supplier complies with the requirements of this clause 10; and
- (b) the suspension is not caused by an act or omission or breach of contract by the Supplier, then the Supplier may, as full compensation for the suspension, be paid:
 - (i) agreed standby charge for actual costs incurred by the Supplier to keep its organisation, Personnel, and equipment committed to the Services on a standby basis; or
 - (ii) an agreed demobilisation and remobilisation charge for the actual costs incurred by the Supplier for demobilising and remobilising its Personnel and equipment, as determined by the Company, acting reasonably.

11. TERMINATION

11.1 TERMINATION BY EITHER PARTY

Either Party may terminate the Contract by written notice if the other Party is in material breach of a material term of the Contract and has not remedied the breach within 14 days after the non-defaulting Party gives written notice of the details of the breach and the non-defaulting Party's requirement to remedy the breach.

11.2 TERMINATION BY THE COMPANY

- (a) In addition to the rights of the Company as provided for elsewhere in the Contract, the Company may, at any time and at its sole and absolute discretion, terminate the Contract in whole or in part by giving the Supplier not less than 14 days' written notice.
- (b) In the event of termination by the Company under clause 11.2(a), the Company will pay to the Supplier:
 - (i) all amounts due and payable by the Company to the Supplier for goods and/or services delivered prior to the termination date; and
 - (ii) any reasonable, direct costs and expenses incurred as a result of the termination (as reasonably determined by the Company) in relation to the Supplier's demobilisation from Site or Goods that are manufactured exclusively for the Company (and are not standard or stock items) and are either in transit or are in the process of being manufactured, provided that:
 - (A) the Supplier must make all reasonable efforts to mitigate all costs and expenses incurred as a result of the termination;
 - (B) the Supplier must provide reasonable documentary evidence of those costs; and
 - (C) the Supplier is not entitled to claim for any profit, or loss of profit or any damage or other Claim arising as a result of the termination,

which shall be accepted by the Supplier in full and final settlement of all and any rights and remedies of the Supplier in respect of termination of the Contract by the Company. All Goods for which the Supplier is paid in accordance with this clause 11 shall be delivered to, and become the property of the Company.

- (c) Upon payment by the Company to the Supplier in accordance with clause 11.2(b), the Supplier shall waive any Claims for damages, loss, expenses and costs (including loss of any anticipated profits) which the Supplier may otherwise have had on account of the termination of the Contract by the Company, and acknowledges that the Company be released from all further obligations to the Supplier pursuant to the provisions of the Contract from the date on which termination is effective (other than as contemplated in this clause 11.2).

11.3 EFFECT OF TERMINATION

Upon termination or expiry of the Contract:

- (a) the Supplier must cease to perform any Services or dispatch and supply any Goods (or both, as applicable) and must demobilise any plant and equipment and Personnel from Site as soon as is reasonably practicable (at its cost unless otherwise expressly stated in the Contract;
- (b) the Company will remain liable to pay for any Goods that the Supplier can demonstrate were already dispatched for delivery prior to the date of termination;
- (c) the Parties will be released from their requirement to perform any further obligations under the Contract, except those expressed to survive termination; and
- (d) each Party retains the rights it has against the other Parties in respect of any breaches of the Contract that occurred prior to termination.

12. FORCE MAJEURE EVENT**12.1 MEANING OF FORCE MAJEURE EVENT**

- (a) A Force Majeure Event means any event or circumstance, or combination of events and circumstances that:
 - (i) are not within the reasonable control of the Affected Party;
 - (ii) could not reasonably have been prevented, mitigated or avoided by the exercise of due diligence or Good Engineering and Operating Practice; and
 - (iii) cause or result in failure or delay in the performance by the Affected Party of any of its obligations under the Contract.
- (b) Subject to meeting the qualifications in clause 12.1(a), a Force Majeure Event includes the following:
 - (i) acts of God, lightning strikes, earthquakes, floods, droughts, storms, tempests, mud slides, washaways, explosions, cyclones, tidal waves, landslides, adverse weather conditions, fires and any natural disaster;
 - (ii) acts of war (declared or undeclared), acts of public enemies, riots, malicious damage, sabotage, blockade, revolution, riot, insurrection, civil commotion and epidemic;
 - (iii) acts or omissions (whether legislative, executive or administrative) of any Government Agency;
 - (iv) inability to obtain or delay in obtaining any necessary Authorisation after making due application; and
 - (v) strikes, lockouts or other labour difficulties other than a strike, lockout or labour difficulty which is specific to the party claiming Force Majeure.

12.2 NO LIABILITY FOR INABILITY TO PERFORM RESULTING FROM FORCE MAJEURE EVENT

If, due to a Force Majeure Event, a Party is unable to perform an obligation under the Contract on time and as required, then that obligation is suspended for so long as the Affected Party's ability to perform it is affected by that Force Majeure Event provided that a suspension for a Force Majeure Event will not extend the Term.

12.3 NOTIFICATION OF FORCE MAJEURE EVENT

- (a) An Affected Party must as soon as reasonably practicable notify the other party of:
 - (i) the occurrence and details of any Force Majeure Event;
 - (ii) the estimated delay in performance resulting from the Force Majeure Event; and
 - (iii) where possible, the proposed method of remedying or abating the Force Majeure Event.
- (b) An Affected Party must promptly notify the other party of any changes in or cessation of the occurrence or effects of Force Majeure.

12.4 REASONABLE DILIGENCE TO OVERCOME

An Affected Party must use all reasonable diligence to overcome the effect of the event of Force Majeure as quickly as possible.

12.5 TERMINATION DUE TO AN EVENT OF FORCE MAJEURE

- (a) If an event of Force Majeure continues for a period of 30 days, the Company may give the Supplier a notice of termination with immediate effect.
- (b) After termination under clause 12.5(a) the Company will pay to the Supplier all amounts due and payable by the Company to the Supplier for the Goods provided under the Contract prior to the date of termination.

13. INDEMNITY AND LIMITATION OF LIABILITY

- (a) Subject to clause 13(b), Supplier is liable for and must indemnify and hold harmless the Company, its Related Bodies Corporate and its and their Personnel (Indemnified Parties) from and against any Liability, whether arising under any statute or at common law, in respect of:
 - (i) the performance, non-performance or breach by the Supplier or its Personnel of any of the Supplier's obligations under the Contract;
 - (ii) any negligent act or omission of the Supplier or its Personnel arising out of or in any way connected or related to their performance or non-performance of the Contract;
 - (iii) any Third Party Claim;
 - (iv) the entry onto and presence on the Site, by the Supplier and its Personnel (if applicable);
 - (v) the illness, injury or death of any of the Supplier's Personnel arising out of or in any way related to the Contract; and
 - (vi) any breach of third party intellectual property rights,provided that the Supplier is not liable under this indemnity to the extent (and in the proportion) that such Liability arises from negligent act or omission of the Indemnified Parties:
- (b) To the maximum extent permitted by Law, neither Party will be liable to the other Party for any Consequential Loss unless cover is provided for under a contract of insurance.

14. INSURANCE**14.1 INSURANCE**

- (a) In addition to any insurance which is required by Law where the Supplier's Obligations are to be performed, the Supplier must effect and maintain during the Term the insurances in this clause, ensure that all of the terms and conditions of the said insurances are complied with and pay all premiums, calls and deductibles when due.
- (b) The Supplier must, before the commencement of the Supplier's Obligations, and at other times reasonably requested by the Company, give to the Company a certificate of currency for each insurance policy.
- (c) The effecting and keeping in force of insurances required by the Contract do not in any way limit the responsibilities, obligations and liabilities of the Supplier under any other provisions of the Contract.
- (d) The Supplier must ensure that its sub-suppliers maintain insurance similar to the insurances required to be maintained by the Supplier under this Contract.

14.2 PUBLIC AND PRODUCTS LIABILITY

All Suppliers **MUST** maintain Public and Products Liability insurance covering legal liability to pay compensation for bodily injury, death, sickness or disease to any person and loss, destruction or damage to real or personal property (including resultant loss of use), arising directly or indirectly from the Supplier's Obligations, such policy must:

- (a) include a minimum policy limit of \$20,000,000 any one occurrence (in the aggregate with respect to Products Liability);

- (b) include Products Liability coverage for the design, manufacture, supply, sale, or distribution of products associated with the Supplier's Obligations;
- (c) include a Principal's Indemnity extension indemnifying the Company, their Related Entities and their respective employees;
- (d) provide a waiver of subrogation in favour of the Company, their Related Entities and their respective employees;
- (e) include a cross-liability clause which confirms insurers accept the term "Insured" as applying to each of the parties constituting the Insured as if a separate policy of insurance had been issued to each of them (subject always to the overall limit of liability not being increased) and that a failure by any Insured party to observe and fulfil the terms and conditions of the policy will not prejudice the rights of any other Insured party to claim under the policy;
- (f) extend to cover goods in the physical and legal control of the Supplier;
- (g) extend to cover liability in respect of third-party property damage or personal injury arising from the use of unregistered plant and equipment;
- (h) provide cover for underground activities if applicable

14.3 PLANT AND EQUIPMENT

Where Suppliers enter and work on the Company's sites, the Supplier must maintain insurance in respect of all plant, equipment and other property owned, operated or controlled by the Supplier or its employees, sub-suppliers or agents or for which the Supplier is responsible which the Supplier brings to or uses on Site including transit risk or at other places where the Supplier's Obligations are performed for not less than the market value of the plant and equipment, such policy must:

- (a) include legal liability coverage for road registered plant and equipment to a limit of not less than \$30,000,000 any one occurrence and unlimited as to the number of occurrences any one period of insurance.
- (b) include a Principal's Indemnity extension indemnifying the Company, their Related Entities and their respective employees;
- (c) provide a waiver of subrogation in favour of the Company, their Related Entities and their respective employees;
- (d) include a cross-liability clause which confirms insurers accept the term "Insured" as applying to each of the parties constituting the Insured as if a separate policy of insurance had been issued to each of them (subject always to the overall limit of liability not being increased) and that a failure by any Insured party to observe and fulfil the terms and conditions of the policy will not prejudice the rights of any other Insured party to claim under the policy; and
- (e) where applicable extend to cover plant and equipment while underground;

14.4 WORKERS COMPENSATION

Where Suppliers enter and work on the Company's sites, the Supplier must maintain Workers compensation insurance covering liability arising out of death of or injury to persons employed (or deemed to be employed) by the Supplier in connection with the Supplier's Obligations or the Project (including liability under any applicable workers compensation legislation and at common law), such policy must:

- (a) comply with all statutory requirements including providing compulsory statutory workers compensation benefits;
- (b) provide common law liability to a limit of not less than \$50,000,000 in relation to any one occurrence and unlimited as to the number of occurrences including cover for industrial disease common law; and
- (c) include a Principal's Indemnity extension including a waiver of subrogation for both Workers Compensation Act Benefits and common law, in favour of the Company, their Related Entities and their respective employees;
- (d) extend to include employees underground if applicable.

14.5 MOTOR VEHICLE

Where Suppliers enter, work and drive on the Company's sites, the Supplier must maintain Comprehensive Motor Vehicle insurance in respect of all vehicles owned, operated, leased, hired, or controlled by the Supplier or its employees, sub-suppliers or agents, registered or required to be registered in accordance with any Law which are used (or to be used) on any road at any time in connection with the Supplier's Obligations, such policy must:

- (a) provide cover for Material Damage to all vehicles for not less than their Market Value;
- (b) include coverage for liability in respect of third-party property damage or personal injury to a minimum limit of \$30,000,000;
- (c) include a Principal's Indemnity extension indemnifying the Company, their Related Entities and their respective employees;
- (d) provide a waiver of subrogation in favour of the Company, their Related Entities and their respective employees;
- (e) include a cross-liability clause which confirms insurers accept the term "Insured" as applying to each of the parties constituting the Insured as if a separate policy of insurance had been issued to each of them (subject always to the overall limit of liability not being increased) and that a failure by any Insured party to observe and fulfil the terms and conditions of the policy will not prejudice the rights of any other Insured party to claim under the policy;
- (f) where applicable extend to cover motor vehicles while underground; and
- (g) Include bodily injury gap coverage arising from the use of registered motor vehicles not otherwise covered by compulsory third party insurance.

14.6 SUPPLIER PROPERTY/EQUIPMENT

- (a) Where the Supplier brings its own equipment to site for the purposes of meeting the Supplier's obligations, insurance is required covering all loss and damage to all the Supplier's equipment/property for which the Supplier or its employees, sub-suppliers or agents are responsible, for an amount of not less than market value (unless otherwise insured to the satisfaction of the Company).

14.7 PROFESSIONAL INDEMNITY

- (a) Where the Supplier, for the purposes of meeting the Supplier's obligations is required to carry out design work or provide advice, and/or management and/or construction management services, professional indemnity insurance for an amount not less than \$5,000,000 for any one claim and \$10,000,000 in the annual aggregate, is required. Limit to be specific to the Contract and policy to be in force from the Commencement Date and maintained for at least 7 years after the end of the Contract.

14.8 TRANSIT

- (a) Where applicable and Goods are being delivered under this Contract, transit insurance covering the Goods with a sum insured of not less than the replacement value of the Goods, with the insurance being maintained up until the Goods are accepted by the Company at the Delivery Point;

15. DISPUTE RESOLUTION**15.1 NOTICE OF DISPUTE**

- (a) Subject to clause 15.4, if a dispute between the Supplier and the Company arises out of or in connection with the Contract (**Dispute**) then, subject to clause 15.2, a Party may give the other Party a notice (**Notice of Dispute**) specifying the Dispute and requiring its resolution under this clause 15.
- (b) During the existence of any Dispute, the parties must continue to perform all of their obligations under the Contract without prejudice to their position in respect of such Dispute.

15.2 TIME OF NOTICE

The Supplier must not submit a Notice of Dispute in respect of a Claim for any extra costs, loss or damage unless the

claim has previously been submitted to and determined in writing by a representative of the Company. Where a Claim has been submitted to the Company and has not been determined by a representative of the Company within 28 days then the Claim will be deemed to have been rejected by the Company at the end of that time and a Notice of Dispute may be given.

15.3 ESCALATION

- (a) If the Dispute is not resolved within 21 days of the date of the Notice of Dispute, then either Party may request a meeting between their respective executive management to attempt to resolve the Dispute and the executive management must meet and attempt to resolve the Dispute by good faith negotiations.
- (b) If the Dispute is not resolved within 45 days of the date of the Notice of Dispute (or such longer period as the Parties may agree), either Party may refer the Dispute to a court of competent jurisdiction for resolution.

15.4 URGENT INTERLOCUTORY RELIEF

Nothing in this clause prevents a party from seeking urgent interlocutory relief.

15.5 CONTINUED PERFORMANCE

Notwithstanding the existence of any Dispute or that a Dispute resolution process is ongoing, the Parties must continue to perform their obligations under the Contract.

16. RECORDS

The Supplier must:

- (a) maintain a true, correct and complete set of records, books and accounts, relating to the costs and expenses for which the Supplier seeks compensation or reimbursement prepared in accordance with generally accepted accounting principles and accounting standards in Australia; and
- (b) make these available at no cost to the Company for audit, inspection, and copying by the Company or its designated representative during the term of the Contract and for a period of two (2) years afterwards or as required by Law, whichever is the greater following any termination or completion of the Contract.

17. ASSIGNMENT

- (a) Subject to clause (b), neither Party shall, without the prior written consent of the other Party, assign, mortgage, transfer or charge any or all of its rights or obligations under or pursuant to the Contract.
- (b) The Company may assign or transfer its rights or obligation under the Contract to any Related Body Corporate without the prior written consent of Supplier provided that it gives the Supplier notice of such assignment. Supplier shall enter into any documentation reasonably required by the Company to give effect to such assignment or transfer.

18. CONFIDENTIALITY**18.1 SUPPLIER TO MAINTAIN CONFIDENTIALITY**

The Supplier must not, and must ensure that its Personnel do not, unless the Company has first agreed in writing:

- (a) disclose to anyone else; or
- (b) use for a purpose other than the provision of the Supplier's Obligations;

any of the Confidential Information or the details of the Contract, except to the extent permitted by clause 18.2 or required by Law or the rules of a recognised stock exchange.

18.2 PUBLICITY

- (a) The Supplier must not advertise or issue any information, publication, document or article for publication or media releases or other publicity relating to the Supplier's Obligations or the Project, the Site or the Contract without the prior written approval of the Company, except as required by Law or any listing rules applying to it (or any of its Related Bodies Corporate).
- (b) The Supplier must not, and must ensure that its employees and its subcontractors and their respective

employees do not, take any photographs or video recording of any part of the Site or the Project, without the prior written approval of a representative of the Company.

19. NOTICES**19.1 FORM OF NOTICE**

- (a) Unless expressly stated otherwise in the Contract, any notice, certificate, consent, approval, waiver or other communication in connection with the Contract (**Notice**) must be in writing or given by electronic transmission, signed by the sender (if an individual) or an authorised officer of the sender.
- (b) Each Party may change its address details from time to time by giving notice to the other Party in accordance with clause 19.1(a).

19.2 WHEN NOTICES ARE TAKEN TO HAVE BEEN GIVEN AND RECEIVED

- (a) A Notice is regarded as given and received:
 - (i) if delivered by hand, when delivered to the address set out in the Purchase Order;
 - (ii) if sent by pre-paid post, on the 3rd day following the date of postage; and
 - (iii) if sent by e-mail, when a delivery confirmation report or receipt is received by the sender which records the time that the e-mail was delivered to the addressee's e-mail address (unless the sender receives a delivery failure notification indicating that the e-mail has not been delivered to the addressee).
- (b) A Notice delivered or received other than on a Business Day or after 5.00pm (recipient's time) is regarded as received at 9.00am on the following Business Day. A Notice delivered or received before 9.00am (recipient's time) is regarded as received at 9.00am.

20. PPSA SECURITY REGISTRATION AND ENFORCEMENT

- (a) If either Party provides a Security Interest to another party pursuant to the Contract, that Party consents to the other Party effecting a registration of the relevant Security Interest on the PPSA Register (in any manner it considers appropriate) and agrees to provide all assistance reasonably required to facilitate this.
- (b) The Parties agree that each of the provisions of the PPSA which section 115 of the PPSA permits Parties to contract out of, other than sections 117 and 118 (relationship with land laws) and 134(1) and 135 (retention of collateral), do not apply to the enforcement of any Security Interest provided pursuant to the Contract.
- (c) To the extent permitted by section 275 of the PPSA, the Parties agree to keep all information of the kind mentioned in section 275(1) of the PPSA confidential and to not disclose that information to any other person, except where disclosure is otherwise permitted or authorised under the Contract.
- (d) Notwithstanding anything in the Contract, notices or documents required or permitted to be given pursuant to the Contract for the purposes of the PPSA must be given in accordance with the PPSA.
- (e) The Party providing a Security Interest waives the right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.

21. GENERAL**21.1 GOVERNING LAW**

The Contract shall be governed by the laws of Western Australia. Each Party submits to the non-exclusive jurisdiction of courts of Western Australia and any courts entitled to hear appeals from those courts.

21.2 ENTIRE AGREEMENT

The Contract constitutes the entire agreement between the two Parties in relation to the subject matter and supersedes all prior negotiations, conditions, representations, proposals, understandings and agreements whether written oral which are excluded and negated save and except for such conditions or representations that cannot be excluded by virtue of the *Competition and Consumer Act 2010* (Cth) or any applicable Law.

21.3 SURVIVAL

- (a) Clauses 11, 13, 14, 15, 16, 17, 18, 19, and 21 survive termination or expiry of the Contract.
- (b) Any other term by its nature intended to survive termination or expiry of the Contract, or expressed to survive termination or expiry of the Contract, survives termination or expiry of the Contract.

21.4 SEVERABILITY

Any provision of the Contract that is invalid or unenforceable in any relevant jurisdiction will be deemed to be severed from the Contract, without affecting the validity or enforceability of the remaining provisions of the Contract or affecting the validity or enforceability of that provision in any other jurisdiction.

21.5 WAIVER

A Party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the Party giving the waiver.

21.6 RELATIONSHIP OF THE PARTIES

- (a) The Parties acknowledge and agree that the relationship between Company and Supplier is that of principal and independent contractor.
- (b) Nothing in the Contract will be deemed to constitute Supplier nor any of its Personnel as an employee, partner, agent or representative of Company and Supplier nor any of its Personnel will have no authority to incur and will not incur any obligation on the part of Company, except with, and to the extent of, the prior written authority of Company.

21.7 COSTS AND EXPENSES

- (a) Subject to clause (b), each Party must pay its own costs and expenses in respect of the negotiation, preparation, execution and delivery of the Contract.
- (b) The Supplier shall be responsible for and must from time to time as required by law pay all compulsory superannuation, payroll tax, income tax and any other government levies and charges incurred in connection with providing the Goods, and indemnifies and will keep indemnified the Company from and against all losses, liabilities, damages, Claims, proceedings, demands, costs and expenses however arising that the Company or its servants, agents or Suppliers suffer, sustain or incur by reason of the Supplier's breach of any part of this clause 21.7.

21.8 CIVIL LIABILITY ACT

To the extent permitted by law, Part 1F of the Civil Liability Act 2002 (WA) is excluded from the Contract.

22. ANTI- CORRUPTION / MODERN SLAVERY

22.1 The Supplier represents, warrants and agrees that, in connection with the Contract:

- (a) neither the Supplier nor their Personnel, directly or indirectly, has engaged (upon entering into the Contract) or will engage in the bribery of an official, agent or representative of a Government Agency or any person;
- (b) the Supplier (including their Personnel) will otherwise comply with any applicable Anti-corruption Laws;
- (c) it will notify the Company promptly upon becoming aware that any officer, director, employee or shareholder becomes, or expects to become, an official, agent or representative of a Government Agency in a position to influence action for or against the Company;
- (d) if the Supplier engages a sub-supplier or other third party to interact with others on behalf of the Company, it will perform appropriate risk based anti-corruption due diligence on that sub-supplier or third party, will keep records of the same, and take reasonable measures to ensure they comply with clauses 22.1(a), 22.1(b), and 22.1(c);
- (e) it will notify the Company promptly upon becoming aware of any actual or potential breach of clause 22.1(a), 22.1(b) and 22.1(c) by the Supplier or their Personnel.

- 22.2** In performing its obligations under the Contract, the Supplier must, and must ensure that each of its sub-suppliers:
- (a) comply with all applicable Laws including the *Modern Slavery Act 2018* (Cth);
 - (b) take reasonable steps to ensure that there is no modern slavery or human trafficking in the Supplier's or sub-suppliers supply chains or in any part of their business.
- 22.3** Without limiting any other rights of the Company at law or under this Contract, if the Company reasonably suspects that the Supplier is in breach of or has breached clauses 22.1 or 22.2, or the Company knows or reasonably suspects that such a breach is imminent, then:
- (a) the Company may immediately terminate the Contract by notice to the Supplier; and
 - (b) any claims for payment by the Supplier in relation to the Contract will be automatically terminated and cancelled.