

Terms and Conditions

1. DEFINITIONS

Company means Orixon Ply Ltd.

Customer means, until the quote is accepted, the entity for whose benefit the quote was raised, and otherwise means the entity who accepts the quote issued by the Company.

2. OFFER CONDITIONS

(a) This quote is valid for the period set out in the quote or otherwise 60 days and may be withdrawn by the Company at any time prior to acceptance.

(b) This quote is based on the information supplied to the Company at the time it is issued. The quote is subject to a final/further inspection of the site by the Company to confirm the scope of works. If the scope of work identified at the final inspection differs to the scope anticipated by the Company at the time of and/or as set out in, the quote, then clause 4 applies

WORK

3. In consideration for payment by the Customer of the amount set out in the purchase order, as varied in accordance with these terms and conditions, the Company agrees to perform the scope of work set out in the purchase order, as varied in accordance with these terms and conditions.

(b) The Company does not warrant that the works will be fit for any particular purpose unless that purpose is expressly stated in writing in the quote. If the Company is responsible for the design of any works, then the Customer is deemed to have satisfied itself upon accepting the quote that the design of the works and goods meets their needs and the purpose for which the works are intended.

VARIATIONS

4. If the scope of work changes as a result of:

- (a)
- i. the final inspection in clause 2(b);
 - ii. a change to statutory or other legal requirements;
 - iii. a direction arising from a Latent Condition under clause 11,

then the Company shall be entitled to adjust the payment amount set out in the quote to allow for the additional costs, overheads and profit associated with the change in scope of work and adjust any program, timing or schedule to allow for the change in scope of work.

The Customer may seek, and the Company may agree (but is not obliged) to perform, a change to the scope of work in which case the Company shall be entitled to adjust the payment amount set out in the quote to allow for the additional costs, overheads and profit associated with the change in scope of work.

(b)

TITLE

5. Company shall remain the legal and equitable owner of any property used in connection with the works unless and until such property is intended to be part of the works permanently and/or the Customer has paid for the property in full, whichever ever occurs first in time.

(a)

If property owned by the Company is in the possession of the Customer at any time prior to title therein passing to the Customer, the Customer shall retain the property in the same condition as at the time when provided to the Customer.

(b)

CUSTOMER'S OBLIGATIONS

6. The Customer will provide access to power and water services to the Company to the satisfaction of the Company for the purpose of the Company completing the quoted works. The Customer will meet the consumption costs of same.

(a)

(b) The Customer will provide adequate and uninterrupted access to the Customer's premises for the purpose of the Company completing the scope of works specified in the quote, at no cost to the Company.

(c) The Customer must, unless it expressly forms part of the Company's scope of work specified in the quote, obtain and maintain at its expense all permits, licences, consents and insurances required by law for the works.

(d) The Customer must not assign the benefit of this document without the prior written consent of the Company.

(e) The Customer grants to the Company a security interest under the *Personal Property Security Act 2009* (Cth) (PPSA) in any property provided to the Customer where the Company retains ownership under clause 5(a).

(f) The Customer acknowledges and agrees that the Company may apply to register a security interest in any property provided to the Customer where the Company retains ownership under clause 5(a). The Customer waives its rights under s 157 of the PPSA to receive notice of any verification of the registration.

(g) If the Customer is in breach of any condition of this quote, the Company may enforce its security interest in any property provided to the Customer where the Company retains ownership under clause 5(a) by exercising all or any of its rights under the PPSA. To the maximum extent permitted by law, the Customer and the Company agree that the

following provisions of the PPSA do not apply to the enforcement by the Company of its security interest in property provided to the Customer where the Company retains ownership under clause 5(a): sections 95, 118, 121(4), 125, 130, 132(3)(d), 135, 142 and 143.

(h) The Customer and the Company agree not to disclose information of the kind mentioned in s 275(1) of the PPSA, except in circumstances required in s 275(7)(b)-(e) of the PPSA.

(i) The Customer must promptly do anything required by the Company to ensure that the Company's security interest is a perfected security interest and has priority over all other security interests in the property provided to the Customer where the Company retains ownership under clause 5(a).

7. CUSTOMER'S DEFAULT

(a) If the Customer commits an act of bankruptcy, falls to comply with a statutory demand, has a liquidator, provisional liquidator, receiver or administrator appointed or enters into any arrangement or composition with creditors, or ceases to trade, the Company may immediately terminate the agreement constituted by the acceptance of this quote.

(b) If at any stage the Customer is in breach of any condition of this quote the Company may by notice in writing request the breach to be remedied within seven (7) days. If the breach is not remedied within that time the Company may do any or all of the following:

- (i) suspend the works;
- (ii) terminate this agreement
- (iii) recover all loss or damage suffered as a result of the breach.

8. LIMITATION ON LIABILITY

(a) The Company is not liable under any circumstances whatsoever to the Customer for any consequential or indirect loss that the Customer may suffer in connection with the works, including, but not limited to, loss of productivity, loss of profit or income, loss of opportunity, loss of rent.

(b) Any claim (whether arising out of a single or multiple different events, acts, omissions, failures or breaches) the Customer may have against the Company, its agents, employees or servants, for loss or damage or otherwise in connection with the works is limited to the total amount set out in the quote.

9. COSTS AND PAYMENT

(a) The Company may issue invoices in respect of the works the subject of the quote either progressively or upon practical completion (defined as when the quoted works are finished except for minor defects or minor omissions).

(b) The Customer must pay an invoice without any deduction or set-off of any kind within the time specified in the quote, or if no time is specified then within 30 calendar days.

(c) The existence of minor defects or minor omissions does not constitute reason for withholding full payment of any invoice.

(d) If the Customer fails to make payment upon an invoice, an amount of interest at 12% pa plus any enforcement or collection costs will be payable by the Customer on an indemnity basis. The Company may suspend the works whilst payment of any invoices is outstanding and otherwise clause 6 applies.

10. RECTIFICATION OF DEFECTIVE WORK

(a) The Customer must notify the Company of minor defects and omissions within four weeks of practical completion and the Company must attend to rectification of same within four weeks of being notified.

11. LATENT CONDITIONS

(a) The Company is not liable for any latent conditions that arise when carrying out the quoted works and the Company shall be entitled to suspend work in relation to the quoted works until the latent condition is rectified by either:

- (i) The Customer undertaking the work in respect of the latent condition at its own cost prior to the Contractor recommencing the quoted work; or
- (ii) The Customer directing the Company to undertake the work in respect of the latent condition at the Customer's cost.

(b) The Company is not liable for any loss or damage resulting from any insufficient or defective foundations or structure not erected by the Company.

12. RISK

(a) All materials are at the risk of the Customer once delivered to the address where the Company is to complete the quoted works.

(b) The Company is not, under any circumstances, liable for any loss arising from late delivery of the works the subject of the quote.

13. LAW

(a) This quote is governed by and is to be construed in accordance with the laws and Courts of Western Australia.