

## DEFINITIONS AND INTERPRETATIONS

### 1.1 Definitions:

**Anti-Bribery and Anti-Corruption Legislation** means all laws in connection with the prohibition of bribery and corruption applicable to the performance of this Order (including by virtue of the place of domicile or operations of the parties and their related bodies corporate), and includes the *Criminal Code Act 1995* (Cth), the *Crimes Act 1914* (Cth), the *Public Governance, Performance and Accountability Act 2013* (Cth), the *Corporations Act 2001* (Cth) and the *Bribery Act 2010* (UK).

**Associated Person** means a person or entity that performs services for another, including as an employee, agent, contractor, representative or subsidiary of that other person or entity.

**Claim** means any action, suit, claim, demand, cause of action, proceeding, notice, defence or set-off for any present or future Liability whether based in contract, equity, tort (including negligence), statute, for unjust enrichment or otherwise.

**Code** means the Code for the Tendering and Performance of Building Work 2016 (Cth) (available at [www.employment.gov.au/building-code](http://www.employment.gov.au/building-code)) made under the Building and Construction Industry (Improving Productivity) Act 2016 (Cth).

**Collateral** has the meaning given in the PPSA.

**Contract Sum** means the contract sum identified in the Material Order (excluding GST) subject to any adjustments made pursuant to these General Conditions.

**COR Laws** means Law relating to fatigue management, speed and mass, dimension and load restraint compliance requirements generally referred to as 'Chain of Responsibility' laws or 'Heavy Vehicle' laws.

**Delivery Date** means the delivery date identified on the Material Order or in a schedule attached to the order as varied in writing by LORAC.

**Delivery Point** means the delivery point(s) identified in the Material Order.

**Facilitation Payment** means a minor, often unofficial payment made to secure or expedite a routine government action by a government official or employee (but excludes a payment specifically authorised by the written domestic law of the country in which it is made).

**Former Code** means that Building Code 2013 (Cth).

**Goods** means the goods identified in the Material Order and any other materials required to be provided in accordance with this Order.

**Governing Law** means the law of the State or Territory in which the Project is located.

**Head Contract** means the contract between LORAC and the Client for the Project.

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**Insolvent** means the Supplier:

- (i) stops or suspends payments of its debts generally or if LORAC on reasonable grounds suspects that the Supplier is unable to pay its debts as they fall due;
- (ii) ceases or threatens to cease carrying on its business;
- (iii) commits an act of bankruptcy, becomes the subject of a bankruptcy petition or is declared bankrupt;
- (iv) calls a meeting of creditors or the Supplier proposes to enter into a composition or scheme of arrangement for the benefit of its creditors (except for the purposes of reconstruction to which the other party has consented);
- (v) has a mortgagee seek to exercise a right of possession, management or control over the whole or part of the Supplier's property;
- (vi) has execution or other processes levied against it by creditors;
- (vii) fails to comply with a statutory demand (within the meaning of Section 459F(1) of the *Corporations Act 2001* (Cth));
- (viii) has a winding up order made against it or (except for the purposes of reconstruction to which LORAC has consented) passes or attempts to pass a resolution for winding up or has winding up proceedings commenced against it;
- (ix) is a party to the appointment of or has a Controller (as defined in the *Corporations Act 2011* (Cth)) or similar appointee appointed to the whole or a part of its property or undertaking; or
- (x) is the subject of anything analogous or with a substantially similar effect to any of the events specified in clauses (i) to (ix) above.

**Laing O'Rourke ABAC Policy** means the Laing O'Rourke Global Anti-Bribery and Corruption Policy available here: <http://www.laingorourke.com/who-we-are/governance/code-of-conduct.aspx>

**Law** means all laws, legislation, ordinances, regulations, bylaws, orders, rules and other subordinate legislation, approvals, codes and relevant Australian, international and industry standards.

**Liability** means any liability, Claims, costs, losses and expenses (including without limitation legal fees on a solicitor and own client basis) or damages of any nature suffered or incurred by LORAC directly or indirectly.

**LORAC** means the Laing O'Rourke entity shown in the Material Order.

**Material Order** means the material order form that refers to these General Conditions.

**Nominated Product** means:

- (i) cement compound board
- (ii) corrugated sheets

- (iii) bitumen products used for damp-proofing
- (iv) heat resistant sealing and caulking compounds
- (v) heating equipment
- (vi) lagging
- (vii) switchgear with washers
- (viii) electrical panel partitioning
- (ix) electrical cloths and tape
- (x) pre-assembled switch rooms
- (xi) flash vessels
- (xii) effluent treatment equipment
  - i. various gaskets
  - ii. joining material in flues
  - iii. washers and friction materials

**Order** means:

- (i) the Material Order;
- (ii) any documents referred to in the Material Order (or attached to these General Conditions but excluding any standard terms and conditions of the Supplier); and
- (iii) these General Conditions.

**Personal Information** means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not and whether the information or opinion is recorded in a material form or not, which is received, collected and/or handled in connection with this Agreement.

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**PPS Register** means the Personal Property Securities Register established under the PPSA.

**Privacy Act** means the *Privacy Act 1988* (Cth).

**Privacy Laws** means the *Privacy Act 1988* (Cth) and all other applicable legislation relating to the handling of Personal Information.

**Prohibited Act** means, in connection with this Order, any act which would breach any applicable Anti-Bribery and Anti-Corruption Legislation and any other legal prohibitions on money laundering, trade control and sanctions, and the like, and includes offering, giving or agreeing to give to any person, or soliciting, accepting or agreeing to accept from any person (either directly or indirectly) anything of value in order to obtain, influence, induce or reward any improper advantage and Facilitation Payments.

**Project** means the project identified in the Material Order.

**Proportionate Liability Legislation** means, if the Delivery Point is located in:

- (i) the Australian Capital Territory, then the *Civil Law (Wrongs)*

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Practice for the Building and Construction;

- (iii) if the Delivery Point is in Western Australia, the Western Australian Building and Construction Industry Code of Conduct 2016; or
- (iv) if the Delivery Point is in a State or Territory other than those listed above, any Legislative Requirements in force from time to time in the State or Territory in which the Delivery Point is located which relate to government procurement requirements.

**Supplier** means the supplier identified in the Material Order.

**WHS Act** means the principal work health and safety Act(s) in the State or Territory where the Delivery Point is situated, and the State or Territory where work under this Order (or any part thereof) is being carried out.

**WHS Legislation** means the WHS Act and the WHS Regulation and any other health and safety related legislation applicable to work connected with the supply of the Goods.

**WHS Regulations** means the regulation/s associated with the WHS Act.

- 1.2 A reference to delivery by a Delivery Date is a reference to Delivery of each part of the Goods specified in the Material Order by the corresponding Delivery Date.
- 1.3 If the Supplier is comprised of 2 or more persons, the obligations under this Order bind them jointly and severally.

## 2. SUPPLIER'S PERFORMANCE

- 2.1 The Supplier:
  - (a) must deliver the Goods by the Delivery Date; and
  - (b) warrants that the Goods will:
    - (i) comply with this Order and all applicable Law;
    - (ii) be of a merchantable quality, new and suitable for the purpose required;
    - (iii) be free of all defects and will operate and function satisfactorily and reliably under all Project conditions; and
    - (iv) be free and clear of all liens and encumbrances and that the Supplier has full unencumbered title in the Goods and will have the right to sell the Goods.
- 2.2 If the Supplier is in breach of any of its obligations set out in clause 2.1, LORAC may have the Goods repaired, replaced and delivered by others without prejudice to any other rights or remedies that LORAC may have and the cost incurred will be a debt due and payable by the Supplier to LORAC.

## 3. INTELLECTUAL PROPERTY

The Supplier warrants to LORAC that the Goods do not infringe upon any patent, trademark, copyright or any other intellectual property rights (Intellectual Property

Rights). The Supplier must indemnify LORAC against any Liability, arising out of, or in any way in connection with any actual or alleged infringement of any Intellectual Property Rights.

## 4. INDEMNITIES AND INSURANCE

- 4.1 The Supplier must indemnify Laing O'Rourke against all Liabilities for:
  - (a) personal injury, illness to or death of any person;
  - (b) loss or damage to or loss of use of any real or personal property; or
  - (c) any breach of this Order,arising out of or in connection with any act or omission of the Supplier or its personnel.
- 4.2 The Supplier must effect and maintain:
  - (a) insurance for the Goods for the full replacement value for the period that the Supplier has the risk of the Goods as stated in clause 6.5;
  - (b) public and product liability insurance for an amount of \$10,000,000.00 if no amount is specified in the Material Order commencing on the date of the Agreement; and
  - (c) such other insurances as are required by law.
- 4.3 The Supplier must provide evidence of such insurances on request.

## 5. TESTING AND INSPECTIONS

- 5.1 The Supplier must conduct all inspections and testing as required by this Order or as instructed by LORAC to satisfy LORAC the Goods are in accordance with this Order.
- 5.2 LORAC and its client may access the Supplier's premises upon reasonable notice to:
  - (a) inspect and test any Goods during manufacture, processing storage and inspect, witness or expedite any testing of the Goods carried out by the Supplier; and
  - (b) review any quality documentation and any other records in any way connected with the supply of the Goods.
- 5.3 For the purposes of conducting any visits, inspections or tests pursuant to this clause 5, the Supplier shall, and shall procure that its sub-suppliers will, grant to LORAC and its authorised representatives (including the client) full access to all premises and provide all tools, testing equipment and manpower, and render all necessary assistance to LORAC.
- 5.4 On completion of the tests, the Supplier must rectify any defect identified in the Goods so that the Goods comply with this Order. Any inspection or testing (or lack thereof) does not relieve the Supplier of its obligations under this Order.
- 5.5 Wherever it is practicable to do so the Supplier shall, at LORAC's request, furnish LORAC with any necessary

Act 2002 (ACT) and the *Building Act 2004* (ACT);

- (ii) New South Wales, then Part 4 of the *Civil Liability Act 2002* (NSW);
- (iii) Northern Territory, then the *Proportionate Liability Act 2005* (NT);
- (iv) Queensland, then Part 2 of the *Civil Liability Act 2003* (Qld);
- (v) South Australia, then Part 3 of the *Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001* (SA);
- (vi) Tasmania, then Part 9A of the *Civil Liability Act 2002* (Tas) and the *Building Act 2000* (Tas);
- (vii) Victoria, then Part IVA of the *Wrongs Act 1958* (Vic); or
- (viii) Western Australia, then Part 1F of the *Civil Liability Act 2002* (WA).

**Public Official** is any person holding a legislative, administrative or judicial office, including any person employed by or acting on behalf of a public agency, a government controlled enterprise, or a public international organisation.

**Relevant Collateral** means Collateral which is the subject of a Security Interest granted under this Order.

**Security Interest** has the meaning given in the PPSA.

**Security of Payments Act** means if the Governing Law is based in:

- (i) the *Australian Capital Territory, the Building and Construction Industry (Security of Payment) Act 2009* (ACT).
- (ii) *New South Wales, the Building and Construction Industry Security of Payment Act 1999* (NSW);
- (iii) *Northern Territory, the Construction Contracts (Security of Payment) Act 2004* (NT);
- (iv) *Queensland, the Building and Construction Industry Payments Act 2004* (QLD);
- (v) *South Australia, the Building and Construction Industry Security of Payment Act 2009* (SA);
- (vi) *Tasmania, the Building and Construction Industry Security of Payment Act 2009* (Tas);
- (vii) *Victoria, the Building and Construction Industry Security of Payment Act 2003* (Vic); or
- (viii) *Western Australia, the Construction Contracts Act 2004* (WA).

**State Code** means:

- (i) if the Delivery Point is in New South Wales, the New South Wales Code of Practice for Procurement and the Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction;
- (ii) if the Delivery Point is in Queensland, the Queensland Code of Practice for the Building and Construction Industry, the Implementation Guidelines to the Queensland Code of

- supporting evidence or information confirming that the Goods comply with the requirements of this Order.
- 5.6 LORAC shall be entitled at any time to inspect and test any Goods after Delivery, including during installation, commissioning or maintenance at the site and may inspect, witness or expedite any tests carried out by the Supplier at the site.
- 6. DELIVERY**
- 6.1 The Supplier must:
- (a) deliver and unload the Goods at the Delivery Point at its cost;
  - (b) ensure the Goods are:
    - (i) properly packed for transportation, loading and unloading having regard to the nature of the Goods and possible weather conditions;
    - (ii) clearly labeled as required by LORAC; and
    - (iii) accompanied by a delivery docket which lists the Goods supplied in sufficient detail to enable checking to take place at the time of delivery.
- 6.2 After the Supplier has delivered and unloaded the Goods at the Delivery Point, LORAC may inspect the Goods within 14 days and if it is not satisfied the Goods comply with this Order LORAC may:
- (a) advise the Supplier that LORAC accepts the defective Goods, or any part of those Goods, despite the defects and the Contract Sum will be adjusted; or
  - (b) notify the Supplier that the Goods are defective and may, at LORAC's option, direct that the Goods are:
    - (i) repaired; or
    - (ii) replaced,
 in accordance with that direction.
- 6.3 The parties acknowledge and agree that any:
- (a) delivery docket executed by Laing O'Rourke on delivery of the Goods to the Delivery Point; or
  - (b) failure to reject defective Goods,
- will not be taken as evidence that the Goods comply with this Order and will not limit or exclude the responsibilities and obligations of the Supplier in relation to Goods.
- 6.4 Any delay in providing access to the Delivery Point whether caused by LORAC or arising due to some other cause beyond LORAC's reasonable control, will not be construed as a breach of this Order and will not entitle the Supplier to any Claim.
- 6.5 The Goods will be at the risk of LORAC once the Goods have been supplied and unloaded at the Delivery Point.
- 7. VARIATIONS**
- 7.1 LORAC may at any time direct the Supplier to change the Goods (which may include omitting part of the Goods so

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that LORAC may supply those Goods itself or engage a third party to supply those Goods). No such variation shall vitiate this Order.

- 7.2 The value of any variation as determined by LORAC will be added or deducted from the Contract Sum.
- 7.3 The Supplier will not be entitled to Claim for any change to the Goods or additional Goods unless before that work was performed, it was expressly directed in writing by LORAC.
- 8. PAYMENT**
- 8.1 Within 21 days of delivery, the Supplier may submit a tax invoice for the Contract Sum due for the Goods delivered, accompanied by any information requested by LORAC.
- 8.2 Tax invoices and credit notes must:
- (a) clearly state the relevant Material Order number on the first page of the tax invoice;
  - (b) be provided with all delivery dockets and any other relevant documentation;
  - (c) be sent by:
    - (i) email to:  
[accountspayableaustralia@laingorourke.com.au](mailto:accountspayableaustralia@laingorourke.com.au); or
    - (ii) mail to:  
*Laing O'Rourke Australia Construction Pty Ltd  
Accounts Payable Shared Services Department  
GPO Box 5094, Brisbane QLD 4001*
  - (d) where emailed:
    - (i) the tax invoice must be attached to the email as single PDF document. The first page of the PDF document must be the tax invoice. The following pages must be all delivery dockets and any other relevant documentation; and
    - (ii) where multiple tax invoices, each tax invoice must be provided in a separate email.
- 8.3 Subject to compliance with clause 8.2 and the proper performance of the Supplier's obligations LORAC must pay the undisputed amount invoiced within 30 days of receipt of the tax invoice.
- 8.4 Payment will be on account only and will not be evidence of satisfactory performance by the Supplier of this Order.
- 8.5 Title in the Goods will pass from the Supplier to LORAC on payment.
- 8.6 LORAC may deduct from any payment otherwise due to the Supplier:
- (a) any debt or other amount due from the Supplier to LORAC; or
  - (b) any bona fide claim to payment LORAC may have against the Supplier whether for damages or otherwise under this Order or at law.

**9. DEFAULT BY SUPPLIER AND TERMINATION**

- 9.1 LORAC may by written notice terminate this Order:
- (a) if the Supplier fails to rectify a default under this Order within the time specified by LORAC in a written notice of default, effective immediately;
  - (b) for its sole convenience, effective from the date stated in the notice and supply the undelivered Goods itself or by engaging other suppliers; or
  - (c) on Insolvency, effective immediately.
- 9.2 On receiving a notice of termination Supplier must:
- (a) immediately stop work;
  - (b) take such action as is necessary or as LORAC directs, for the transfer, protection and preservation of the Goods; and
  - (c) try every possible means to minimise the costs of termination to LORAC.
- 9.3 If the Order is terminated under clause 9.1(b) the Supplier must send to LORAC within 30 days of the date of termination a tax invoice for the value of any Goods:
- (a) delivered and unpaid at the date of termination; and
  - (b) off site at the date of termination that are ready for delivery as evidenced by the Supplier in writing provided that such Goods will:
    - (i) become the property of LORAC on payment; and
    - (ii) be delivered and unloaded by the Supplier as directed by LORAC.
- 9.4 Any payment of the Supplier's undisputed tax invoice (issued in accordance with clause 9.3) will be in full satisfaction of LORAC's Liability to the Supplier and the Supplier will not be entitled to make any other Claim arising out of or in connection with the Goods or this Order.
- 9.5 Without prejudice to any other rights or remedies of LORAC, the Supplier will be liable to LORAC for any Liability arising out of or in connection with a termination of this Order pursuant to clause 9.1(a) and such amounts will be a debt due and owing by the Supplier to LORAC.

**10. SUSPENSION**

- 10.1 LORAC may at any time and for any reason suspend performance of all or any of the Supplier's obligations under this Order by written notice effective upon receipt of the notice. The Supplier must suspend the performance of the obligations identified in the notice until LORAC directs the Supplier to resume performance of those obligations by further written notice. At such time, the Supplier must promptly recommence the performance of those obligations in accordance with this Order.
- 10.2 If a suspension does not arise from an act or omission of the Supplier or its personnel, the Supplier will only be entitled to be paid the extra costs reasonably incurred by the Supplier as a result of the suspension, as determined

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by LORAC.

- 11. PPSA**
- 11.1 If the Supplier believes that a Security Interest arises under this Agreement it must notify Laing O'Rourke at least 5 business days before the Supplier takes steps to register such Security Interest on the PPS Register.
- 11.2 Within 10 business days of the earlier of:
- (a) the expiry or termination of this Agreement; or
  - (b) receipt of the Contract Sum for the Goods,
- the Supplier will at its cost procure the removal from the PPS Register each Security Interest it has registered in respect of the Goods, and must provide LORAC with verification of the removal of the Security Interests pursuant to section 157 of the PPSA.
- 11.3 The parties agree that for the purposes of section 115 of the PPSA the following sections of the PPSA will not apply to any Relevant Collateral:
- (a) section 120 (enforcement of liquid assets);
  - (b) section 126 (apparent possession); and
  - (c) section 128 (secured party may dispose of collateral).
- 12. HEALTH AND SAFETY**
- 12.1 The Supplier acknowledges that LORAC does not control or influence the Supplier's activities except activities performed on LORAC's premises.
- 12.2 The Supplier must:
- (a) comply with its obligations as a supplier, designer, manufacturer, importer, installer, constructor or commissioner of any plant, substance, or structure (as applicable) under WHS Legislation;
  - (b) ensure so far as is reasonably practicable, that the Goods are without risks to the health and safety of persons who may use, handle, store, construct, assemble or carry out any reasonably foreseeable activity including the proper storage, decommissioning, dismantling, demolition or disposal of the Goods;
  - (c) carry out, or arrange the carrying out of, any calculations, analysis, testing or examination that may be necessary for the performance of the duty imposed by subclause 13.2(b);
  - (d) give adequate information to LORAC concerning each purpose for which the Goods were designed or manufactured, the results of testing referred to in subclause 13(c) and any conditions necessary to ensure that the Goods are without risks to health and safety when used, including a description of the Goods and any faults in the Goods that have been previously used; and
  - (e) comply with its obligation under WHS Legislation to consult, cooperate and coordinate activities with all other persons who have a work health and safety duty
- 13. ANTI-BRIBERY AND ANTI-CORRUPTION**
- 13.1 LORAC is committed to operating in a manner consistent with the laws of the jurisdictions in which it operates, including Anti-Bribery and Anti-Corruption Legislation.
- 13.2 (Anti-Corruption Obligations): The Supplier must not, and must take reasonable steps to ensure that any of its Associated Persons do not, commit a Prohibited Act (**Anti-Corruption Obligations**) and:
- (a) must implement adequate policies and procedures to ensure compliance with its Anti-Corruption Obligations, and disclose those policies and procedures to LORAC upon request; and
  - (b) where the Supplier does not have a written policy required by clause 13.2(a), it agrees that it has read and understands the Laing O'Rourke ABAC Policy and will comply with the principles of the Laing O'Rourke ABAC Policy in all respects as if it were its own policy; and
  - (c) must use reasonable endeavours to require its Associated Persons to give an undertaking and to implement adequate policies and procedures to ensure they will not commit a Prohibited Act and, if no such undertaking is forthcoming, will inform LORAC and seek alternative person(s) to perform those services.
- 13.3 (Compliance history): The Supplier represents and warrants that it has not in the past 10 years:
- (a) been the subject of an investigation into its compliance with;
  - (b) been convicted of any offence in connection with; or
  - (c) entered into any settlement in connection with any alleged breach of, any Anti-Bribery and Anti-Corruption Legislation.
- 13.4 (Public Officials): The Supplier represents and warrants that except as otherwise disclosed in writing to LORAC, no Public Official:
- (a) is or will become an Associated Person of the Supplier;
  - (b) is or will become involved in the management of, including as part of its board or other governing body, or holds or will hold a controlling or significant interest the Supplier; or
  - (c) is an immediate family member of a member of the board or other governing body or senior management of the Supplier.
- 13.5 (Notification obligations): The Supplier will immediately notify LORAC in writing (including details, steps taken and proposed steps to investigate and address the issue) if:
- (a) it becomes aware that any representations or warranties in clauses 13.3 and 13.4 are false;
  - (b) it, or any of its Associated Persons breaches the Anti-Corruption Obligations; or
  - (c) it becomes aware of any breach, alleged breach or facts or circumstances which could reasonably be considered to constitute a breach of Anti-Bribery and Anti-Corruption Legislation by it or an Associated Person.
- 13.6 (Investigation and audit rights): If the Supplier notifies under clause 13.4, or if LORAC reasonably believes that there has been a breach of the Anti-Corruption Obligations, the Supplier must, for up to 3 years after completion or expiry of the Order:
- (a) respond promptly to LORAC's reasonable enquiries and cooperate with LORAC in connection with its investigation; and
  - (b) allow LORAC access to any relevant documentation, books or records relevant to:
    - (i) the Supplier's performance of this Order, for the purpose of assessing compliance with this clause 13;
    - (ii) legal or equitable interests in the Supplier; and
    - (iii) any ongoing background checks LORAC may wish to make in relation to the Supplier's compliance with the Anti-Corruption Obligations.
- 13.7 (Consequences of breach): Without limiting any other rights LORAC has under this Order, if LORAC reasonably believes that the Supplier is in breach of clause 13 or that a breach is imminent, LORAC:
- (a) may suspend performance and payment under this Order; or
  - (b) may, by written notice effective immediately terminate the Order; and
  - (c) is not obliged to make any payment to the Supplier in respect of goods, services or other benefits procured through or related to the breach.
- 13.8 The Supplier will indemnify LORAC for any costs, losses, expenses, charges, damages or the like (including legal and other professional expenses) incurred by LORAC and arising from or related to a breach or alleged breach by the Supplier or any of its Associated Persons of the Anti-Corruption Obligations, provided that such losses are reasonably foreseeable and mitigated if practicable.
- 14. CODE AND INDUSTRIAL LAWS COMPLIANCE**
- 14.1 Laing O'Rourke must comply with the Code on the Project, or the Former Code or the State Code if they apply to Laing O'Rourke on the Project. The Supplier must comply with any reasonable direction from Laing O'Rourke to ensure that:
- (a) Laing O'Rourke complies with the obligations that may apply under the Former Code, the Code or the State Code;
  - (b) the Supplier complies with the obligations that may apply under the Former Code, the Code or the State Code and provides Laing O'Rourke with necessary warranties in that regard.
- 14.2 The Supplier is responsible for, and will ensure that it and any subcontractors comply with its obligations under any

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department that replaces it.

### 15. GENERAL

- 15.1 The Supplier will not without the prior written consent of LORAC, assign, transfer or sublet this Order.
- 15.2 This Order is governed by the law applicable in the State or Territory in which the Delivery Point is located. The parties submit to the non-exclusive jurisdiction of the Courts of that State or Territory.
- 15.3 The delay or non-exercise of a right (including a set off) does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or future exercise of it or the exercise of any other power or right. Any waiver or consent given by a party will only be effective if given or confirmed in writing.
- 15.4 The remedies provided in this Order do not prejudice LORAC's rights against the Supplier whether arising out of or in connection with this Order or otherwise at law.
- 15.5 To the maximum extent permitted by law, the operation of the Proportionate Liability Legislation is excluded in relation to rights, obligations and liabilities under this Order whether such rights obligations or liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity, under statute or otherwise at law.
- 15.6 If a breach of this Order by the Subcontractor causes or contributes to LORAC becoming liable to pay damages under the Head Contract, whether liquidated or otherwise, the Supplier will be liable for and will indemnify LORAC against any Liability LORAC is liable to pay.
- 15.7 The Supplier shall be deemed to have accepted the Order upon the earlier of:
- signature by the Supplier of the Material Order, or some other written acknowledgement;
  - delivery of the Goods by the Supplier to the Delivery Point;
  - submission to LORAC by the Supplier of an invoice for payment in respect of the Goods; or
  - if the Supplier does not notify LORAC of its non-acceptance of the Order or any part thereof, within 5 business days of the Supplier's receipt of the Material Order.

### 16. PRIVACY

The Supplier must comply with all Privacy Laws, whether or not it is an organisation bound by the Privacy Act.

### 17. CHAIN OF RESPONSIBILITY LEGISLATION

To the extent heavy vehicles are used in the performance of this Order, the Supplier:

- must comply with all COR Laws;
- warrants that it is familiar with and has the capability and resources to comply with COR Laws and ensure that its Personnel complies with all COR Laws; and

applicable Industrial Instrument, the Fair Work Principles or Laws relating to employee entitlements, including:

- paying all wages, workers' compensation insurance, fringe benefits tax, all payroll taxes and other employee entitlements including in respect of any superannuation fund, scheme or arrangement for the benefit of workers;
- complying with all applicable Laws with respect to the deduction and payment of tax instalment deductions from salaries and wages paid to employees; and
- observing all terms and conditions of employment, applying to any personnel of the Supplier who attend the Site.

- 14.3 The Supplier must not engage in any unlawful arrangements or practices which may avoid award, Industrial Instrument or Laws including treating a genuine employee as an independent contractor or allow an inappropriate application of the Pay As You Go (PAYG) system of taxation.
- 14.4 Upon request from Laing O'Rourke, the Commonwealth or a person authorised by Laing O'Rourke or the Commonwealth, the Supplier must make available all records and provide access to conduct all necessary audits and inspections required to ensure or demonstrate that it and any subcontractors are complying with the above requirements and any Industrial Instruments, Federal and State codes of practice and Laws that apply to the Supplier.
- 14.5 The Supplier consents to disclosure by Laing O'Rourke to the Commonwealth and by the Commonwealth of information concerning the Supplier's compliance with the Code and State Code and whether an exclusion sanction has been imposed on it or its related entities.
- 14.6 The Supplier must notify Laing O'Rourke and the ABCC of any alleged breach, voluntary remedial action taken or other matters relating to the Code as soon as practicable after becoming aware of the alleged breach, the remedial action being taken or matter arising.
- 14.7 The Supplier must notify Laing O'Rourke of any order arising from an adverse Court or Tribunal decision made against it for a breach of workplace relations law, work health and safety law, or workers' compensation law as soon as practicable after becoming aware of the order being made.
- 14.8 Definitions:
- Industrial Instrument** means an award or agreement, however designated, that:
- is made under or recognised by an industrial law (within the meaning of the Fair Work Act 2009 (Cth)); and
  - relates to the relationship between an employer and the employer's employees.
- ABCC** means the Australian Building and Construction Commission including any Commonwealth agency or

- must undertake any audits or monitoring as requested by LORAC to demonstrate compliance with this clause.

### 18. QUALITY SYSTEMS

- 18.1 The Supplier must establish and maintain quality systems acceptable to LORAC. Unless otherwise shown in the Material Order, the Supplier's quality systems must comply with the current version of AS/NZS ISO 9001 "Quality management system – requirements".
- 18.2 If any part or component of the Goods is imported and is a Nominated Product, the Supplier must, upon delivery provide to Laing O'Rourke the results of tests performed on the part or component in a NATA accredited laboratory in accordance with AS 4964-2004 "Method for the qualitative identification of asbestos in bulk samples", following sampling in accordance with "AS 4433.1 Guide to the sampling of particulate materials Part 1: Sampling procedures".

### 19. NO AMENDMENT WITHOUT AUTHORITY

- 19.1 This Order cannot be revised or amended unless in writing and signed by LORAC's designated Project Leader or its Regional Commercial Manager.
- 19.2 This Order constitutes the entire agreement of the parties about its subject matter and:
- supersedes all previous agreements, understandings and negotiations on that subject matter irrespective of whether or not in writing; and
  - will prevail over any other document (including any delivery docket, tax invoice or other document containing terms and conditions in relation to the supply of the Goods) issued by the Supplier from time to time, whether signed by LORAC or not and whether post-dating this Order or not.