

Recitals

- 1 The Principal wishes to engage the Supplier to provide certain Goods and Services as set out in the Purchase Order (**Goods and Services**).
- 2 The Supplier has agreed to provide the Goods and/or to perform the Services on the terms and conditions set out in the Agreement, including these Terms and Conditions, except to the extent they are inconsistent with anything separately agreed in writing between the Principal and the Supplier.

1 Definitions and Interpretation

- (a) In this Agreement, unless a contrary intention appears:

Agreement means the Purchase Order and these Terms and Conditions;

Business Day means any day that is not a Saturday, Sunday or public holiday in Victoria, Australia;

Commencement Date means the date on which the Principal issues a Purchase Order;

Confidential Information has the meaning given to the term in clause 20;

Consequential Loss has the meaning given to the term in clause 17(b);

Contract IP has the meaning given to the term in clause 15(b);

Cyber Security Event has the meaning given to the term in clause 21(b);

Date of Delivery means the date on which the Goods are delivered in accordance with clause 3;

Defect means the Goods and/or Services or any part of the Goods and/or Services (or other matter or thing relating to the Goods and/or Services) which is not in accordance with the requirements of this Contract or Purchase Order, including any defect, fault, error, omission, inaccuracy or discrepancy;

Defects Liability Period means the period set out in the Purchase Order;

Due Date means the date for delivery of the Goods or the completion of the Services as specified in the Purchase Order;

Delivery Point means the location for delivery of the Goods as specified in the Purchase Order;

Environmental Law means any applicable law relating to the environment, pollution, waste, hazardous materials, contamination or ecological protection;

Goods means the goods described in the Purchase Order, including all equipment, materials, plant, components and associated documentation supplied or to be supplied by the Supplier under this Agreement;

GST means goods and services tax imposed under *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Intellectual Property Rights has the meaning given to the term in clause 15(a);

Loss has the meaning given to the term in clause 16(a);

Modern Slavery has the meaning given in the *Modern Slavery Act 2018* (Cth);

Personal Information has the meaning given in the *Privacy Act 1988* (Cth);

Personnel means any related body corporate of the Supplier, employees, officers, agents and contractors.

Price has the meaning given to the term in clause 11(a);

Principal means the Tilt Renewables specified in the Purchase Order.

Principal Associate means any related body corporate of the Principal and each of their respective officers, employees, agents and contractors (other than the Supplier);

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

Protected Data has the meaning given to the term in clause 21(a)(2);

Purchase Order means a written purchase order issued by the Principal to the Supplier under clause 3;

Services means the services described in the Purchase Order under "Description";

Site means the site or project location specified in the Purchase Order or otherwise notified by the Principal;

Supplier IP has the meaning given to the term in clause 15(d);

Term means the period commencing on the Commencement Date, and expiring in accordance with clause 2.1;

WHS Laws means all applicable work health and safety legislation, regulations, codes of practice and standards;

- (b) In this Agreement, unless a contrary intention appears:
- (1) words importing the singular include the plural and vice versa;
 - (2) headings do not affect interpretation;
 - (3) a reference to a party includes its successors and permitted assigns;
 - (4) the word 'includes' is not a word of limitation; and
 - (5) nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement.

2 Supply of Goods and Services

2.1 Term

- (a) This Agreement commences on the Commencement Date and, if specified in the Purchase Order, ends on the expiry of the Defects Liability Period unless terminated earlier in accordance with this Agreement.

2.2 Purchase Orders

- (a) Orders for Goods and/or Services under this Agreement will be placed by Purchase Order in writing.
- (b) Each Purchase Order must specify the Goods and/or Services required, the Price, the Due Date or timeframe for performance, and any other relevant requirements.
- (c) In the event of any ambiguity or inconsistency between the documents forming this Agreement, the Purchase Order will have priority to these Terms and Conditions.
- (d) Nothing in this Agreement obliges the Principal to issue any Purchase Order or to acquire any minimum quantity of Goods or Services from the Supplier. The Principal may procure the same or similar goods and services from other suppliers.

2.3 Formation of independent contracts

- (a) A separate agreement for the supply of Goods and/or Services comes into existence on delivery by the Principal to the Supplier of a Purchase Order for the Goods and/or Services and that agreement shall comprise:
- (1) the relevant Purchase Order and any documentation referred to therein; and
 - (2) these Terms and Conditions,
- as though each reference to 'this Agreement' in these Terms and Conditions were a reference to such contract.
- (b) Notwithstanding clause 2.3(a), a contract also comes into existence on the terms of this Agreement in each of the following circumstances:
- (1) the Supplier commences part performance of an order by the Principal for Goods or Services; or
 - (2) the Principal accepts Goods delivered or Services performed by the Supplier,
- whether or not a Purchase Order has been formally issued or the procedures in clause 2.2 have been complied with.

3 Delivery of Goods

- (a) The Supplier must deliver the Goods to the Principal on the Due Date at the Delivery Point (if applicable, during the opening hours of the Delivery Point) at the Supplier's cost and risk.
- (b) The Supplier must ensure that the Goods are adequately protected from damage and deterioration during shipment, transport and short term storage. 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.

- (c) The Supplier has not delivered the Goods until they have been delivered and unloaded to the Delivery Point and received by the Principal or its agent.
 - (d) If the Supplier becomes aware of any matter that may affect or delay delivery, it must notify the Principal in writing immediately.
 - (e) If for any reason, the Principal is unable to accept delivery of the Goods on the Due Date, the Supplier will store the Goods, safeguard them and take all reasonable steps to prevent their deterioration until delivery. The Supplier will be entitled to charge the Principal reasonable storage costs after the expiry of seven (7) days after the Due Date. The Supplier will advise the Principal of the intended storage cost rate at the request of the Principal.
 - (f) Time is of the essence in respect of the Supplier's obligation to deliver and (where relevant) install the Goods. Where the Supplier does not deliver the Goods by the Due Date, the Principal may:
 - (1) reject the Purchase Order;
 - (2) refuse to take any subsequent attempted delivery of the Goods; or
 - (3) obtain substitute products from a third-party supplier and recover from the Supplier any costs and expenses reasonably incurred by the Principal in obtaining such substitute products.
 - (g) The Supplier must procure all import licences, permits and approvals required for the importation of the Goods into Australia (where applicable), and is solely responsible for compliance with all customs requirements and payment of all duties and charges.
- (b) If the Purchase Order does not specify a timeframe for the provision of any Services, the Supplier must provide those Services within a reasonable time, provided that where the Supplier becomes aware of any matter which may change or delay the performance of the Services, it must advise the Principal in writing immediately.

8 Standard of Goods and Services

- (a) In the case where the Agreement relates to Goods:
 - (1) The Supplier warrants to the Principal that the Goods:
 - (A) will be new on delivery (unless otherwise agreed in writing);
 - (B) will be of merchantability quality;
 - (C) are and will be fit for the purpose for which the Goods would ordinarily be used and any purposes disclosed to the Supplier by the Principal prior to the Supplier supplying such Goods;
 - (D) do not require any maintenance or servicing by the Principal, unless otherwise specified;
 - (E) will conform to any description and any sample provided by the Supplier;
 - (F) will be and perform in accordance with the manufacturer's specifications;
 - (G) will be free from defects in materials and workmanship;
 - (H) will apply to all legally applicable standards; and
 - (I) will be free from any encumbrances, liens or charges.
 - (2) The Supplier warrants that the Principal has the full benefit of any manufacturer's warranties that may be applicable to the Goods, and the Supplier will, at no cost to the Principal, procure and enforce any manufacturer's warranties on the Principal's behalf if the Principal so requests.
 - (3) The Supplier must, if the Principal requires, produce written evidence of the assignment to the Principal of the manufacturer's warranty in respect of the Goods, or such other evidence sufficient to satisfy the Principal that it is legally entitled to the benefit of that manufacturer's warranty.

- (b) In the case where the Agreement relates to Services:
 - (1) The Supplier must perform the Services with the degree of professional skill, care and diligence expected of a competent professional consultant experienced in carrying out the same services or services of a similar size, scope and nature to the Services, in compliance with all applicable law, legislative requirements and standards.
 - (2) The Supplier represents and warrants to the Principal that it has the requisite skill, experience and ability to perform the Services in accordance with this agreement, and acknowledges that the Principal has entered into this agreement in reliance on this representation.
 - (3) The Supplier must ensure and warrants that any designs, drawings, specifications or other documents submitted to the Principal under this agreement are suitable for their intended purposes as reasonably ascertainable from this agreement and comply with all applicable laws, standards and the requirements of this agreement.
 - (4) In performing the Services, the Supplier must actively liaise, consult and cooperate with other consultants and contractors notified to the Supplier by the Principal and, where instructed by the Principal, integrate and coordinate the Services with the services performed by such other consultants and contractors.

4 Installation of Goods

- (a) If required by the Principal, the Supplier will promptly install the Goods to the Principal's reasonable satisfaction, or otherwise in accordance with the Principal's directions and within the time specified by the Principal (if any).

5 Inspection, testing and acceptance of Goods

- (a) The Supplier must carry out all pre-delivery testing of Goods as specified in the Purchase Order, at its own cost.
- (b) The Principal may inspect the Goods at the Supplier's premises at any time prior to delivery. No inspection or failure to inspect prior to delivery limits the Principal's right to reject Goods after delivery.
- (c) All Goods are subject to acceptance by the Principal following delivery. The Principal may reject any Goods that do not comply with this Agreement by written notice to the Supplier.
- (d) If Goods are rejected:
 - (1) the Supplier must, at its cost, replace or remedy the rejected Goods within the time specified by the Principal (acting reasonably);
 - (2) the Supplier must remove the rejected Goods must be removed at its cost as soon as practicable after receiving notice of the Principal's rejection; and
 - (3) if the Supplier fails to remove the rejected Goods within a reasonable time, the Principal may return or store rejected Goods at the Supplier's cost and risk.
- (e) Acceptance of Goods does not limit any right or remedy that the Principal may have under this Agreement or at law, including in respect of Defects that become apparent after acceptance.

6 Risk and title in Goods

- (a) Risk in the Goods will pass to the Principal once the Goods have been accepted by the Principal in accordance with clause 5.
- (b) Title in the Goods will pass to the Principal on the earlier of:
 - (1) acceptance by the Principal in accordance with clause 5; and
 - (2) unless the Principal has already paid for the Goods in full prior to delivery, in which case title will pass upon full payment.

7 Time for performance of Services

- (a) The Supplier must provide the Services in accordance with all time and programming requirements set out in the Purchase Order and must complete the Services by the Due Date.

9 Defects

- (a) If a Defect appears in the Goods or Services in the Defects Liability Period, the Principal may (at its discretion) require the Supplier to:
 - (1) remedy the Defect by repair, replacement or re-performance (as applicable) at no cost to the Principal within the timeframe specified by the Principal (acting reasonably); or
 - (2) refund or credit the Principal for the cost of the defective Goods or Services.
- (b) If the Supplier fails to remedy a Defect within the required timeframe, the Principal may remedy the Defect itself or engage a third party to do so, and recover all reasonable costs from the Supplier.
- (c) Any Goods repaired or replaced, or Services re-performed, during the Defects Liability Period will have a further Defects Liability

Period of the same duration commencing from the date of repair, replacement or re-performance.

- (d) The Principal and Supplier agree that this clause 9 does not limit the Principal's rights to claim or seek damages from the Supplier due to a Defect that appears in the Goods or Services for losses suffered by the Principal (whether based in contract, tort, statute, regulation, equity or otherwise).

10 Variations

- (a) The Principal may at any time give written directions to the Supplier to vary the Goods supplied or Services performed, including to vary the nature and extent of, or omit any part of, the Goods or Services (including for the purpose of engaging another consultant to perform the Services in place of the Supplier).
- (b) The Principal and Supplier must agree in writing the scope and extent of the variation to the Goods and/or Services before the Supplier carries out any variation. Upon agreement of the scope and extent of the variation, the Supplier must carry out the variation as if the variation was originally defined in this Agreement as the Goods and/or Services.
- (c) Any variation to the Goods and/or Services is to be valued by agreement between the Principal and the Supplier. Failing agreement, the Principal must determine a reasonable value using the rates set out in the Purchase Order, where applicable. All payments for variations must be claimed and made in accordance with clause 9.
- (d) Despite any other provision of this agreement, the Principal is not liable to pay for any variation to the Goods and/or Services unless the scope and extent of the variation has been agreed in accordance with clauses 10(a) to 10(c).

11 Payment

- (a) Subject to the proper performance of the Supplier's obligations under this Agreement, the Principal must pay the Supplier the fees payable for the Goods and/or Services as set out in the Purchase Order (**Price**). The Price include all costs and expenses (including taxes, duties, chargers, levies and fees payable) of providing the Goods and Services and complying with all of the terms of this Agreement.
- (b) The Supplier must furnish the Principal with a valid tax invoice:
- (1) in respect of each consignment of Goods delivered or Services provided under the relevant Purchase Order;
 - (2) as soon as practicable after and in any event within 10 Business Days of each delivery of such Goods or completion of such Services; and
 - (3) specifying:
 - (A) the correct name and details of the Principal;
 - (B) the Principal's Purchase Order number;
 - (C) the amount due to the Supplier;
 - (D) the date of delivery of the Goods or completion of the Services to which the invoice relates;
 - (E) a description (including the quantity) of the Goods delivered or Services completed, by item if applicable; and
 - (F) the Supplier's address for payment.
- (c) The Principal will (subject to the provisions of this Agreement) pay the Supplier the Price within 30 days of receiving an invoice in accordance with this clause 11.
- (d) The Principal's obligation to payment is conditional upon:
- (1) in respect of Goods, acceptance of the Goods by the Principal in accordance with clause 5;
 - (2) in respect of Services, the Services having been performed in accordance with this Agreement.
- (e) The Principal may deduct from the Price any amounts due from the Supplier to the Principal whether under, or in connection with, this Agreement or otherwise at law.
- (f) Where the Supplier disputes any deduction or failure to pay for Goods and/or Services, the dispute resolution process in clause 25 applies.

12 Site access and conditions

- (a) The Principal will allow the Supplier reasonable access to the Site during normal working hours to the extent required for the Supplier's performance of its obligations under the Agreement. The Supplier will not have access at other times unless it has first received the Principal's written authority.
- (b) Where the Supplier requires access to the Site, the Supplier's access is subject at all times to the Supplier's compliance with all safety, security and other requirements notified by the Principal.
- (c) The Supplier accepts the condition of the Site as is and does not rely on any representation by the Principal as to the condition or suitability of the Site.

13 Health, safety and environment

13.1 Work health and safety

- (a) The Supplier must:
- (1) and must ensure its Personnel, comply with all WHS Laws in connection with the supply of Goods and performance of Services under this Agreement;
 - (2) not commence the performance of any Services or supply of Goods at a Site that is not the corporate offices of the Principal or Supplier until the Principal has advised the Supplier in writing that it has been successfully pre-qualified in Cm3 (or other contractor management system of the Principal); and
 - (3) permit the Principal to audit the Supplier's health, safety and environment systems and records.
- (b) Prior to commencing the Services or supplying the Goods, the Supplier must (where applicable):
- (1) identify reasonably foreseeable hazards that could give rise to risks to health and safety and develop and maintain Safe Systems of Work;
 - (2) provide the Principal a copy of any relevant Safe Work Method Statement required to be prepared by the WHS Laws in relation to any of the Services upon request; and
 - (3) ensure its Personnel have completed any induction or training required by the Principal or any applicable law before accessing the Site.
- (c) The Supplier must ensure that none of its Personnel access or work on the Site whilst under the influence of alcohol, drugs or any other substance that may impair their capacity to work safely.
- (d) The Supplier must immediately notify the Principal, verbally and then in writing within 24 hours, of any:
- (1) injury, illness or near miss arising from the performance of the Services or supply of Goods; and
 - (2) notifiable incident under applicable WHS Laws, including any concurrent notification to the relevant authority.
- (e) If the Supplier fails to comply with its obligations under this clause 13.1, the Supplier may, without prejudice to any other rights which the Principal has under this Agreement, issue a notice requiring the Supplier to remedy its default within the period specified in the notice.
- (f) The Principal may, without prejudice to any other rights, direct the Supplier to suspend performance of the Services or delivery of the Goods where the Principal reasonably considers this becomes necessary:
- (1) because of the Supplier's failure to remedy any default specified in a notice issued under clause 13.1(e) within the period specified in that notice; or
 - (2) for the protection or safety of any person or property.
- (g) The cost of any suspension under clause 13.1(f) will be borne by the Supplier except where the cause of the suspension is due to any grossly negligent act or omission of the Principal or any of its Personnel.
- (h) The Supplier releases the Principal from any liability from any direction given by the Principal under clause 13.1(f), except where such liability is caused by the negligence or unlawful act of the Principal.

13.2 Environment

The Supplier must, and must ensure that its Personnel:

- (a) comply with all applicable Environmental Laws and any conditions attaching to any environmental approval granted in connection with the Project and any requirements set out in the Purchaser Order;
- (b) do not:
 - (1) destroy, clear or remove from the Site any native species of flora and fauna;
 - (2) introduce any exotic species of flora and fauna to the Site;
 - (3) disturb any native vegetation on the Site without the written permission of the Principal; or
 - (4) bring any pets, firearms, weapons, alcohol or drugs to the Site;
- (c) take all steps necessary to minimise any damage to or pollution or contamination of the environment when on the Site and to existing facilities, including public roadways on the Site; and
- (d) immediately notify the Principal of any incident, spill or other event that causes or may cause harm to the environment, and take all reasonable steps to prevent or minimise such harm.

14 GST

- (a) Terms defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning when used in this clause.
- (b) If GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration. This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive.
- (c) No payment of any amount pursuant to this Agreement, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note (as the case may be) to the recipient.
- (d) Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that Party in relation to the relevant cost, expense or other liability.

15 Intellectual Property Rights and Moral Rights

- (a) For the purposes of this agreement, **Intellectual Property Rights** mean all:
 - (1) patents, trade marks, service marks, rights in designs, trade names, copyrights and topography rights, in each case whether registered or not, and any applications for registration of any of them;
 - (2) rights under licences and consents in relation to any of them; and
 - (3) other forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world,but excludes moral rights.
- (b) Subject to clause 15(d), the Principal owns all Intellectual Property Rights in all things produced or developed by the Supplier in the performance of its obligations under this Agreement, either alone or in conjunction with the Principal or any third party (**Contract IP**).
- (c) The Supplier must:
 - (1) disclose all Intellectual Property Rights and moral rights arising out of or in connection with the performance of the Services or delivery of the Goods (as applicable) to the Principal;
 - (2) obtain all Intellectual Property Rights, moral rights and other protected rights necessary to perform its obligations under this Agreement; and
 - (3) do anything necessary to vest the Contract IP in the Principal.
- (d) The Principal does not own Intellectual Property Rights in the Supplier's methodologies or other proprietary information in existence at or before the date of this agreement (**Supplier IP**).

- (e) The Supplier hereby grants an irrevocable, nonexclusive, royalty free, perpetual licence (including the right to sub-license) to the Principal to use, reproduce and copy Supplier IP for any purpose related to the Project or to otherwise make use of the Goods and/or Services.
- (f) The Supplier must ensure that designs, drawings, specifications or other documents submitted to the Principal under this Agreement do not infringe any Intellectual Property Rights.
- (g) The Supplier must ensure that any person engaged or procured by it in respect of the Goods or Services provides express agreement that he or she will not enforce any moral rights that he or she may have, presently or in the future, in any documents, drawings and other materials or things created in respect of the Goods or Services.
- (h) Without limiting the Supplier's obligations under this clause 15, the Supplier must (if requested by the Principal) execute, and ensure that any person engaged or procured by it in respect of the Project executes, a moral rights consent form approved by the Principal. The Supplier must promptly deliver to the Principal copies of any executed consent forms.

16 Indemnity

- (a) The Supplier is liable for and indemnifies the Principal against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment (**Loss**) however caused, brought against, suffered or incurred by the Principal or a Principal Associate (as applicable), arising out of or in connection with any act or omission of the Supplier or its Personnel related to this Agreement in respect of:
 - (1) any breach of this Agreement or any warranty or representation therein;
 - (2) the fraudulent or negligent acts or omissions or dishonest conduct of the Supplier or its Personnel;
 - (3) the insolvency of the Supplier;
 - (4) personal injury to, or the death of, any person;
 - (5) loss of, damage to or loss of use of any property;
 - (6) any breach of clauses 20 (Confidentiality) and 21 (Privacy, data protection and cyber security) by the Supplier or its Personnel; and
 - (7) any actual or alleged infringement of the Intellectual Property Rights or moral rights of a third party.
- (b) The Supplier's liability under clause 16(a) is reduced to the extent the gross negligence of the Principal or breach of this Agreement by the Principal contributed to the Loss.

17 Limitation of Liability

- (a) Subject to clause 17(c), the aggregate liability of the Principal arising out of or in connection with this Agreement (including liability for breach of contract, for tort including negligence or on any other legal basis), is the amount set out in the Purchase Order.
- (b) Subject to clause 17(c), the Principal is not liable to the Supplier for any loss of production, loss of revenue, loss of profit or anticipated profit, loss of business reputation or any other loss not arising naturally in the usual course of things (**Consequential Loss**) arising out of or in connection with this agreement.
- (c) The limitation in clause 17(a) and the exclusion of Consequential Loss in clause 17(b) do not apply to liability:
 - (1) for personal injury or death of any person or damage to any property;
 - (2) for fraud, criminal offence, wilful default, wilful misconduct or gross negligence of the liable party or its Personnel;
 - (3) for breach of any third parties' Intellectual Property Rights or moral rights; or
 - (4) to the extent the liable party recovers insurance proceeds in respect of the liability, or would have recovered insurance proceeds if it had complied with this agreement, complied with the insurance policy and taken all reasonable steps to do so, up to the relevant limits of the insurance policies required to be maintained in accordance with clause 18.
- (d) Nothing in this clause 17 limits the Supplier's obligation to deliver the goods, perform the Services and rectify any errors, defects or omissions in the Goods and/or Services.

18 Insurance

- (a) Where design or advisory Services are provided, the Supplier must effect and maintain professional indemnity insurance covering any act, error or omission by the Supplier or its employees, agents or contractors on terms satisfactory to the Principal (acting reasonably), to the amount of \$5million, unless otherwise stated in the Purchase Order. The Supplier must maintain this professional indemnity insurance from the commencement of the Services until six (6) years after the Supplier ceases to perform the Services.
- (b) The Supplier must effect and maintain public liability insurance to the amount of \$20million, unless otherwise stated in the Purchase Order, and ensure that the interests of the Principal as principal are endorsed thereon. The Supplier must maintain this public liability insurance from the commencement of the Services until the Supplier ceases to perform the Services.
- (c) Where Goods are supplied, the Supplier must effect and maintain product liability insurance to the amount of \$20 million, unless otherwise stated in the Purchase Order, to cover all liability to third parties to cover all liability to third parties for personal injury (including illness), death, property damage and economic loss arising from the supply of Goods.
- (d) Where the Supplier is required to transport Goods to the Delivery Point, the Supplier must maintain transit insurance to the amount stated in the Purchase Order covering the Goods for their full replacement value from the time the Goods first move for the purpose of transit until the completion of delivery under clause 3.
- (e) The Supplier must maintain workers compensation insurance as required by law covering all employees and other Personnel engaged in the Services or the provision of Goods.
- (f) The Supplier must effect and maintain any other insurance required in connection with delivering the Goods or performing the Services under applicable laws. The Supplier must maintain any such insurance from the commencement of the Agreement until the Date of Delivery or the date the Supplier ceases to perform the Services (as applicable).
- (g) The Supplier must provide to the Principal, upon request, evidence that all insurances specified herein have been effected and are current.

19 Personal Property Securities Act

- (a) In this clause, **PPSA** means the *Personal Property Securities Act 2009* (Cth), and **security interest** and **perfected** have the meanings given to them in the PPSA
- (b) The Supplier must, whenever the Principal requests, do anything to ensure any security interest granted to the Principal under this Agreement is fully effective, enforceable and perfected with priority over any other claims or interests of any person.
- (c) The Supplier must:
 - (1) not without the Principal's consent (which will not be unreasonably withheld) give or allow to exist any security interest in this Agreement, the Goods or Services, or plant, equipment, materials or other things used by the Supplier in the discharge of its obligations under this Agreement; and
 - (2) whenever requested by the Principal, provide the Principal with any form, notice, consent, agreement or other information relating to a security interest referred to in this clause.
- (d) Despite any other provision of this Agreement, the Principal will not be obliged to pay for and the Supplier will not be entitled to make a claim for the value of any part of the Goods or Services until either:
 - (1) that part has been affixed to land of the Principal; or
 - (2) the Supplier has demonstrated to the Principal that that part is not the subject of security interests in favour of any person (other than the Principal).
- (e) The Supplier must take reasonable steps to identify security interests in its favour and to perfect and protect them, with the highest priority reasonably available to the extent that they are relevant to the subject matter of this Agreement of the Supplier's performance of its obligations under this Agreement.
- (f) In relation to the PPSA exclusions:

- (1) to the extent this Agreement gives rise to a security interest under the PPSA in favour of the Principal, the parties agree that all provisions of the PPSA listed in section 115(1) and 115(7) of the PPSA (other than sections 117, 118, 134 and 135) are excluded in full and will not apply to that security interests; and
 - (2) the Supplier waives its right to receive: (A) each notice which section 157(3) of the PPSA permits it to waive and, to the extent capable of being waived, notice under any other provision of the PPSA; and (B) anything from the other party under section 275 of the PPSA and agrees not to make any request of the other party under that section.
- (g) For the purposes of section 275(6) of the PPSA, the Principal and the Supplier agree, their obligations of confidentiality under this Agreement apply to any information of the kind referred to in section 275(1) of the PPSA relating to any security interest given or arising under this Agreement.
 - (h) Despite any other provision of this Agreement, the parties agree:
 - (1) the Supplier has no right, title or interest in or in respect of retention moneys which may be retained by the Principal under this Agreement; and
 - (2) the retention moneys comprise amounts of consideration under this Agreement in respect of which the Principal has no payment or other obligations,until those retention moneys are required by this Agreement to be paid to the Supplier.

20 Confidentiality

- (a) The Supplier must ensure that information provided or made available to the Supplier by the Principal, including in relation to the Goods, the Services or the Project, or contained in any drawings, designs, plans, specifications, reports or other documents relating to the Project (whether prepared by the Supplier or others) (**Confidential Information**) is not, without the prior written consent of the Principal, used, supplied, published or conveyed to any other person (whether by the Supplier or its Personnel) for any purpose other than the execution of the Supplier's obligations in accordance with this Agreement.
- (b) Without limiting the generality of clause 20(a), the Supplier must not without the prior written consent of the Principal supply, publish or convey any information relating to the Goods, the Services or the Project to print or electronic media or issue or contribute in any way to media releases connected with the Project.
- (c) The Supplier must ensure that each sub-contract (if any) contains provisions giving effect to this clause.

21 Privacy, data protection and cyber security

- (a) The Supplier must:
 - (1) comply with the *Privacy Act 1988* (Cth) (**Privacy Act**) and all applicable privacy law and only store, transmit, process or disclose Personal Information (as defined in the Privacy Act) within Australia;
 - (2) maintain appropriate measures to keep secure all Personal Information or data provided by the Principal to the Supplier or its Personnel under this Agreement (**Protected Data**);
 - (3) ensure that Protected Data is only used or accessed as necessary to perform its obligations under this Agreement; and
 - (4) comply with all security requirements, policies, procedures or directions as specified in this Agreement or as otherwise reasonably required by the Principal in writing from time to time.
- (b) If the Supplier becomes aware of or suspects that there has been any unauthorised access to or disclosure of the Protected Data or actual, threatened or attempted unauthorised access to, or interference with any system or equipment used in connection with the Goods or Services (in each case a **Cyber Security Event**), the Supplier must (at its own cost):
 - (1) report the Cyber Security Event to the Principal as soon as practicable (and in any event within 24 hours) to security@tiltrenewables.com;
 - (2) mitigate, to the extent practicable, any harmful effect of the Cyber Security Event;

- (3) provide the Principal with all relevant information and any assistance reasonably requested by the Principal for the purposes of investigating, mitigating the impact of or otherwise responding to the Cyber Security Event; and
 - (4) preserve and protect and, if necessary, recover or restore, any affected Protected Data using data restoration techniques (including reverting to any backup or taking other action to recover the Protected Data).
- (c) Upon request from the Principal, which it cannot request more than in a 12 month period, the Supplier must promptly provide evidence to the satisfaction of the Principal (acting reasonably) that demonstrates the Supplier's compliance with this clause 21

22 Anti-Bribery and Modern Slavery

- (a) The parties must at all times comply with all applicable anti-bribery and corruption laws, including *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Cth) and *Criminal Code Act 1995* (Cth) and the Principal's Code of Conduct (available at <https://www.tiltrenewables.com/publications/governance-documents/> or as amended from time to time).
- (b) Each party represents and warrants that:
 - (1) it is not aware of any modern slavery (as defined in the *Modern Slavery Act 2018* (Cth)) (**Modern Slavery**) in its operations or supply chains; and
 - (2) neither it nor any of its officers or employees (or its subcontractor's or supplier's officers or employees) have been convicted of any offence involving Modern Slavery or have been or are the subject of any investigation, inquiry or proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with Modern Slavery.
- (c) The Supplier must notify the Principal promptly upon becoming aware of any actual or suspected Modern Slavery in its operations or supply chains that may have a connection with this Agreement, and must cooperate with the Principal in addressing such matter.
- (d) The Supplier must, upon request, gather and provide to the Principal full information about the Supplier's supply chains which have a connection with this Agreement to assist the Principal in meeting its obligations under the *Modern Slavery Act 2018* (Cth).

23 Assignment

- (a) The Principal may at any time assign, novate, subcontract or otherwise transfer all or any part of its rights or liabilities under this Agreement without the consent of the Supplier. The Supplier must execute any document reasonably required by the Principal to give effect to the assignment, novation or other transfer.
- (b) The Supplier must not assign its rights under this Agreement without the Principal's prior written consent.
- (c) The Supplier must not subcontract any of its obligations under this Agreement without the Principal's prior written consent (not to be unreasonably withheld).
- (d) The Supplier remains liable for the acts and omissions of its Personnel as if they were the Supplier's own acts or omissions.
- (e) The Supplier must ensure that each subcontract contains obligations equivalent to those imposed on the Supplier under clauses 12 (Site access and conditions), 13 (Work, safety and environment), 20 (Confidentiality), 21 (Privacy, data protection and cyber security) and 22 (Anti-Bribery and Modern Slavery).

24 Termination

- (a) The Principal may terminate this Agreement by notice in writing to the Supplier if:
 - (1) the Supplier is in breach of any provision of this Agreement;
 - (2) the Principal issues a written request to the Supplier to rectify the breach; and
 - (3) the Supplier fails to rectify the breach to the Principal's satisfaction within seven (7) days of receiving the request.
- (b) The Supplier may terminate this Agreement by notice in writing to the Principal if the Principal has failed to pay to the Supplier part of the Price which are properly due and payable and not subject to a

bona fide dispute, within 40 Business Days of receiving written notice from the Supplier.

- (c) The Principal may in its absolute discretion and for any reason whatsoever terminate this Agreement at any time after giving seven (7) days written notice to the Supplier.
- (d) If this Agreement is terminated pursuant to clause 24(c) the Principal must, without prejudice to any other rights or remedies, pay the Supplier the amount certified by the Principal's authorised representative as properly due and payable for the Goods delivered and/or Services performed to the date of termination in accordance with the Purchase Order, less any amount the Principal is entitled to set-off or withhold.
- (e) Upon expiry or termination of this Agreement, the Supplier must destroy or return to the Principal all Confidential Information and Protected Data, provided that the Supplier may maintain one copy of the relevant Confidential Information to the extent necessary to comply with applicable insurance, corporate governance, quality assurance and good accounting practices and requirements, subject always to compliance with the requirements of clause 19 and 21(a).

25 Dispute resolution

- (a) Unless the only relief sought is urgent injunctive or declaratory relief, no party may commence proceedings in a court in relation to a dispute under this Agreement unless notice of the relevant dispute has been given to the other party the parties have met in good faith and have used their best endeavours to resolve the dispute.
- (b) Where a party first becomes aware that a dispute has arisen, that party must give the other party a notice of dispute setting out:
 - (1) the nature of the dispute;
 - (2) the facts, matters and circumstances relevant to the dispute; and
 - (3) the quantum of the dispute (if applicable).
- (c) The parties will be deemed to have used their best endeavours to resolve a dispute if they have met to discuss the dispute and have failed to resolve it within fourteen (14) days of that meeting.

26 Miscellaneous provisions

- (a) **(Governing law and jurisdiction)** This Agreement is governed by the laws of Victoria, Australia. Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in such jurisdiction and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement.
- (b) **(Variation)** A variation of any term of this Agreement must be in writing and signed by the parties.
- (c) **(Entire agreement)** This Agreement states all the express terms of the Agreement between the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.
- (d) **(No waiver)** A party's failure or delay to exercise a power or right is not a waiver of that right.
- (e) **(Severability)** If any provision of this agreement is invalid, void or unenforceable in any jurisdiction, it is to be read down to the extent necessary to be valid and enforceable, or severed to the extent of that invalidity.
- (f) **(Further acts)** Each party must do all things and execute all documents necessary to give effect to this Agreement.
- (g) **(Relationship of parties)** Nothing in this Agreement creates a relationship of employment, partnership, joint venture or agency between the Parties.
- (h) **(Survival)** The parties agree that clauses 8, 9, 14, 15, 16, 17, 18(a), 19, 21, 24(d), 25 and 26 and any other obligations which are expressed to or, by their nature, survive expiry or termination of this Agreement, survive expiry or termination of this Agreement and are enforceable at any time at law or in equity.