

1. Definitions

- 1.1 “Agent” means Radiation Professionals Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Radiation Professionals Pty Ltd.
- 1.2 “Client” means the person/s or any person acting on behalf of and with the authority of the Client requesting the Agent to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Client, is a reference to each Client jointly and severally; and
 - (b) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and
 - (c) includes the Client’s executors, administrators, successors and permitted assigns.
- 1.3 “Services” means all Services provided by the Agent to the Client at the Client’s request from time to time, and:
- (a) includes any goods, documents, designs, drawings or other materials (“**Products**”) provided, utilised or created incidentally by the Agent in the course of it conducting, or providing to the Client, any Services (including but not limited training courses where agreed); and
 - (b) where the context so permits the terms ‘Services’ or ‘Products’ shall be interchangeable for the other.
- 1.4 “Proposal” means the letters or other documents prepared by the Agent and submitted to the Client to describe the scope of Services to be provided, the personnel and equipment proposed to be utilized, and the amount or method of calculation of the Fee and reimbursable expenses.
- 1.5 “Fee” means the Fee payable (plus any GST where applicable) for the Goods as agreed between the Agent and the Client in accordance with clause 5 below.
- 1.6 “GST” means Goods and Services Tax (GST) as defined within the “A New Tax System (Goods and Services Tax) Act 1999” (Cth).

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for, or accepts Services provided by the Agent.
- 2.2 These terms and conditions may only be amended with both parties consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and the Agent.
- 2.3 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2003 or any other applicable provisions of that Act or any Regulations referred to in that Act.
- 2.4 The Client accepts and acknowledges in accordance with clause 13.1 that the Client shall have fourteen (14) days to provide feedback, request alterations or accept each version of the report, if the Client fails to comply with such provisions, the Services shall be conclusively presumed accepted and shall not be deemed to be defective in any way.
- 2.5 Reports will be issued in two (2) stages:
- (a) as a finalised document, first issue V1.0, for Client/s feedback (taking into account the fourteen (14) days); and
 - (b) as a finalised document, final issue V2.0, once specific Client/s feedback has been received or fourteen (14) days has passed.

3. Errors & Omissions

- 3.1 The Client acknowledges and accepts that the Agent shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- (a) resulting from an inadvertent mistake made by the Agent in the formation and/or administration of this contract; and/or
 - (b) contained/omitted in/from any literature (hard copy and/or electronic) supplied by the Agent in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of the Agent, the Client shall not be entitled to treat this contract as repudiated nor render it invalid.

4. Change in Control

- 4.1 The Client shall give the Agent not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client’s details (including but not limited to, changes in the Client’s name, address, contact phone or fax number/s, change of trustees or business practice). The Client shall be liable for any loss incurred by the Agent as a result of the Client’s failure to comply with this clause.

5. Fee and Payment

- 5.1 At the Agent’s sole discretion the Fee shall be either:
- (a) as indicated on any invoice provided by the Agent to the Client; or
 - (b) the Fee as at the date of provision of the Services according to the Agent’s current fee schedule; or
 - (c) the Agent’s proposed fee (subject to clauses 5.2 and 5.3) which will be valid for the period stated in the Proposal or otherwise for a period of thirty (30) days.
- 5.2 The Agent reserves the right to change the Fee:
- (a) if a variation to the Services (including any variation to the Client’s brief or specifications) is requested; or
 - (b) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, environmental factors outside the control of the Agent, such as inclement weather, etc.) which are only discovered during the provision of the Services; or
 - (c) in the event of increases to the Agent in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight, logistics and insurance charges), which are beyond the Agent’s control; or
 - (d) where additional costs are incurred by the Agent due to unexpected delays, or receipt of approvals or permits, access to an assessment area not being available as was agreed or when pre-arranged.
- 5.3 In addition to the payment of the Fee, the Client shall reimburse the Agent for all reasonable expenses incurred by the Agent in the performance of the Services. Such expenses include, but shall not be limited to, costs for travel and attendance to meetings/conferences, mobile and long distance telephone calls, fax, printing, photocopying and courier costs. The Client shall be entitled to request and receive such evidence as it may reasonably require of the type and amount of such expenses.

- 5.4 Variations will be charged for on the basis of the Agent's proposal/quotation, and will be detailed in writing, and shown as variations on the Agent's invoice. The Client shall be required to respond to any variation submitted by the Agent within ten (10) working days. Failure to do so will entitle the Agent to add the cost of the variation to the Fee. Payment for all variations due and payable must be in accordance with the Agents standard payment conditions as per clause 5.6
- 5.5 At the Agent's sole discretion, a non-refundable deposit may be required.
- 5.6 Time for payment for the Services being of the essence, the Fee will be payable by the Client on the date/s determined by the Agent, which may be:
- (a) a twenty-five percent (25%) mobilisation instalment/progress payment due immediately upon the issue of a purchase order in accordance with the Agent's payment schedule;
 - (b) the date specified on any invoice or other form as being the date for payment; or
 - (c) failing any notice to the contrary, the date which is thirty (30) days following the date of any invoice given to the Client by the Agent; and
 - (d) unless otherwise agreed, payment is required prior to any training, laboratory analysis, equipment, goods or sub-contracted services being delivered.
- 5.7 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge may apply per transaction) PayPal (plus a surcharge may apply per transaction), or by any other method as agreed to between the Client and the Agent.
- 5.8 Unless otherwise stated the Fee does not include GST. In addition to the Fee the Client must pay to the Agent an amount equal to any GST the Agent must pay for any provision of Services by the Agent to the Client under this or any other agreement. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Fee. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Fee except where they are expressly included in the Fee.
- 6. Provision of the Services**
- 6.1 Delivery ("**Delivery**") of the Products is taken to occur at the time that:
- (a) the Client or the Client's nominated carrier takes possession of the Products at the Agent's address; or
 - (b) the Agent (or the Agent's nominated carrier) delivers the Products to the Client's nominated address even if the Client is not present at the address.
- 6.2 At the Agent's sole discretion, the cost of delivery is either included in the Fee or is in addition to the Fee.
- 6.3 In providing the Services, the Agent shall follow the instructions of, and report in the first instance to, the project director or such persona as the Client's management may designate as being the appropriate instructor and recipient of the Services for any particular project.
- 6.4 The Agent shall comply with the lawful instructions of the Client at all times and shall act in relation to the provision of the Services at all times in the best interests of the Client.
- 6.5 Provision of the Services to a third party nominated by the Client is deemed to be provision to the Client for the purposes of this agreement.
- 6.6 The Agent may provide the Services in separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 6.7 The cost of the provision of any Products to the Client shall, unless otherwise agreed in writing, be in addition to the Fee (under clause 5.3).
- 6.8 Any time specified by the Agent for provision of the Services is an estimate only and the Agent will not be liable for any loss or damage incurred by the Client as a result of late provision. However both parties agree that they shall make every endeavour to enable the Services to be provided at the time and place as was arranged between both parties. In the event that the Agent is unable to provide the Services as agreed solely due to any action or inaction of the Client then the Agent shall be entitled to charge a reasonable fee for re-providing the Services at a later time and date.
- 7. Extension of Contract Period**
- 7.1 The Agent shall be entitled to claim an extension to the term of the contract in the event of delays resulting from any matter whatsoever which is not entirely under the control of the Agent. These matters shall include, but are not limited to delays caused by:
- (a) response(s) to information request(s) made by the Agent to the Client, or any third party, not being available when expected or required;
 - (b) approval authorities response times for requests for preliminary decisions, information;
 - (c) changes to the design brief being requested by the Client;
 - (d) time taken by any approval authority for the granting of relevant approvals or permits;
 - (e) assessment area not being available as was agreed or when pre-arranged;
 - (f) any other variation to the contract.
- 8. Nominated Contractors**
- 8.1 The Agent may, acting solely as agent on behalf of the Client, engage third-party contractors, to which the following shall apply:
- (a) Agent shall be entitled to enter into contracts with such contractors in the name of the Client;
 - (b) the Client shall be responsible for all payments to such contractors;
 - (c) where the Agent makes payment of the contractor's account on behalf of the Client, the Client shall reimburse the Agent for the payment of such account, together with an account-handling fee, as per the Agent's specified payment terms.
- 8.2 The Agent does not warrant the accuracy or quality of the contractors' work, or warrant that the recommendations of the contractors are appropriate or adequate, or are fit for their purpose, or that they are not given negligently. The Client agrees that they shall not make any demand on the Agent, or commence any legal proceedings against the Agent, and the Agent shall have no liability, whether in negligence or otherwise, to the Client in relation to any services performed by the contractors.
- 9. Risk**
- 9.1 Irrespective of whether the Agent retains ownership of any Products, all risk for such items shall pass to the Client as soon as such items are provided to the Client and shall remain with the Client until such time as the Agent may repossess the Products in accordance with clause 10.3(c). The Client must insure all Products on or before provision.
- 9.2 The Agent reserves its right to seek compensation or damages for any damage, destruction or loss suffered in relation to the Products as a result of the Client's failure to insure in accordance with clause 9.1.

10. Title

- 10.1 The Agent and the Client agree that where it is intended that the ownership of Products is to pass to the Client that such ownership shall not pass until:
- (a) the Client has paid the Agent all amounts owing for the Services; and
 - (b) the Client has met all other obligations due by the Client to the Agent in respect of all contracts between the Agent and the Client.
- 10.2 Receipt by the Agent of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Agent's ownership or rights in respect of the Products, and this agreement, shall continue.
- 10.3 It is further agreed that:
- (a) the Client is only a bailee of the Products and must return the Products to the Agent immediately upon request by the Agent;
 - (b) the Client holds the benefit of the Client's insurance of the Products on trust for the Agent and must pay to the Agent the proceeds of any insurance in the event of the Products being lost, damaged or destroyed;
 - (c) the Client irrevocably authorises the Agent to enter any premises where the Agent believes the Products are kept and recover possession of the Products.

11. Personal Property Securities Act 2009 ("PPSA")

- 11.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 11.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Products and collateral (account) – being a monetary obligation of the Client for Services – that has previously been provided, and that will be provided in the future, by the Agent to the Client.
- 11.3 The Client undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Agent may reasonably require to;
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 11.3(a)(i) or 11.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, the Agent for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any registration made thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of the Agent;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Products and/or collateral (account) in favour of a third party without the prior written consent of the Agent.
- 11.4 The Agent and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 11.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 11.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 11.7 Unless otherwise agreed to in writing by the Agent, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 11.8 The Client must unconditionally ratify any actions taken by the Agent under clauses 11.3 to 11.5.
- 11.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

12. Security and Charge

- 12.1 In consideration of the Agent agreeing to provide Services, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 12.2 The Client indemnifies the Agent from and against all the Agent's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Agent's rights under this clause.
- 12.3 The Client irrevocably appoints the Agent and each director of the Agent as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12 including, but not limited to, signing any document on the Client's behalf.

13. Defects, Warranties and the Competition and Consumer Act 2010 (CCA)

- 13.1 The Client must inspect the Services on completion thereof and must within fourteen (14) days notify the Agent in writing of any evident defect in the Services provided (including the Agent's workmanship) or of any other failure by the Agent to comply with the description of, or quote for, the Services which the Agent was to provide. The Client must notify any other alleged defect in the Agent's Services as soon as is reasonably possible after any such defect becomes evident. Upon such notification the Client must allow the Agent to review the Services that were provided.
- 13.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions ("**Non-Excluded Guarantees**").
- 13.3 The Agent acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 13.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, the Agent makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services. The Agent's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 13.5 If the Client is a consumer within the meaning of the CCA, the Agent's liability is limited to the extent permitted by section 64A of Schedule 2.
- 13.6 If the Agent is required to rectify, re-provide, or pay the cost of re-providing the Services under this clause or the CCA, but is unable to do so, then the Agent may refund any money the Client has paid for the Services but only to the extent that such refund shall take into account the value of Services which have been provided to the Client which were not defective.

- 13.7 If the Client is not a consumer within the meaning of the CCA, the Agent's liability for any defective Services is:
- (a) limited to the value of any express warranty or warranty card provided to the Client by the Agent at the Agent's sole discretion;
 - (b) limited to any warranty to which the Agent is entitled, if the Agent did not manufacture the Products;
 - (c) otherwise negated absolutely.
- 13.8 Notwithstanding clauses 13.1 to 13.7 but subject to the CCA, the Agent shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- (a) the Client failing to properly maintain or store any Products;
 - (b) the Client using Products for any purpose other than that for which they were designed;
 - (c) the Client continuing to use any Products after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) interference with the Services by the Client or any third party without the Agent's prior approval;
 - (e) the Client failing to follow any instructions or guidelines provided by the Agent;
 - (f) fair wear and tear, any accident, or act of God.

14. Intellectual Property

- 14.1 The Agent shall retain ownership of the copyright to all Products produced by the Agent during the course of the Services. The Client shall only have a licence to use such Products for the purpose of the individual brief supplied, and the Proposal accepted, by the Client and is not entitled to any additional use without the Agent's express approval in writing.
- 14.2 The Client warrants that all designs, specifications or instructions given to the Agent will not cause the Agent to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify the Agent against any action taken by a third party against the Agent in respect of any such infringement.
- 14.3 The Client agrees that the Agent may (at no cost) use for the purposes of marketing or entry into any competition, any Products which the Agent has created for the Client.
- 14.4 If during the course of providing the Services, the Agent develops, discovers, or first reduces to practice a concept, product or process which is capable of being patented, then:
- (a) such concept, product or process shall be and remain the property of the Agent, and the Client shall not use, infringe or otherwise appropriate the same without first obtaining the written consent of the Agent;
 - (b) the Client shall be entitled to a royalty free licence to use the same during the course of the Services.
- 14.5 The Agent and the Client agree to keep confidential any information in relation to the other party which is not in the public domain (including, but not limited to, trade secrets, processes, formulae, accounts, marketing, designs, databases and all other information held in any form).

15. Default and Consequences of Default

- 15.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at the Agent's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 15.2 If the Client owes the Agent any money the Client shall indemnify the Agent from and against all costs and disbursements incurred by the Agent in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Agent's contract default fee, and bank dishonour fees).
- 15.3 Further to any other rights or remedies the Agent may have under this agreement, if the Client has made payment to the Agent by credit card, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Agent under this clause 15 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this agreement.
- 15.4 Without prejudice to the Agent's other remedies at law, the Agent shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Agent shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to the Agent becomes overdue, or in the Agent's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

16. Cancellation

- 16.1 Without prejudice to any other remedies the Agent may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions the Agent may suspend or terminate the provision of Services to the Client. The Agent will not be liable to the Client for any loss or damage the Client suffers because the Agent has exercised its rights under this clause.
- 16.2 The Agent may cancel any contract to which these terms and conditions apply or cancel provision of the Services at any time before the Services have commenced by giving written notice to the Client. On giving such notice the Agent shall repay to the Client any money paid by the Client for the Services. The Agent shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 16.3 In the event that the Client wants to cancel the Services then the Client must notify the Agent of the same in writing and the Client shall pay the Agent for all Services provided up until the notice of cancellation was received by the Agent, plus all loss incurred (whether direct or indirect) by the Agent as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 16.4 Cancellation of orders for Products made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

17. Privacy Act 1988

- 17.1 The Client agrees for the Agent to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by the Agent.
- 17.2 The Client agrees that the Agent may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Client; and/or

- (b) to notify other credit providers of a default by the Client; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- 17.3 The Client consents to the Agent being given a consumer credit report to collect overdue payment on commercial credit.
- 17.4 The Client agrees that personal credit information provided may be used and retained by the Agent for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Services; and/or
 - (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Services.
- 17.5 The Agent may give information about the Client to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 17.6 The information given to the CRB may include:
- (a) personal information as outlined in 17.1 above;
 - (b) name of the credit provider and that the Agent is a current credit provider to the Client;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and the Agent has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of the Agent, the Client has committed a serious credit infringement;
 - (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 17.7 The Client shall have the right to request (by e-mail) from the Agent:
- (a) a copy of the information about the Client retained by the Agent and the right to request that the Agent correct any incorrect information; and
 - (b) that the Agent does not disclose any personal information about the Client for the purpose of direct marketing.
- 17.8 The Agent will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.
- 17.9 The Client can make a privacy complaint by contacting the Agent via e-mail. The Agent will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.
- 18. Limitation of Liability**
- 18.1 The Agent undertakes to act in all professional matters as a faithful consultant to the Client, whose interests will be watched over with skill and care. Notwithstanding, the Agent shall only be liable to the Client for the consequences of any negligent act, omission or statement of the Agent, and then only to the extent and limitations referred to in clause 18.2.
- 18.2 Subject to clause 13, the Agent shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Agent of these terms and conditions (alternatively the Agent's liability shall be limited to damages which under no circumstances shall exceed the Fee).
- 18.3 The liability of the Agent shall cover only direct loss or damage in respect of the Services, or other matters arising directly from the scope of the Services agreed in the Proposal, and then only to the maximum limit specified as per clause 18.2. All references herein to loss or damage shall be deemed to exclude loss or damage sustained by any third party in respect of which the Client is liable and responsible (as between the Client and the third party) whether by statute, contract tort or otherwise.
- 18.4 The liability of the Agent to the Client shall expire twelve (12) months from the issue of the last invoice relevant to the particular Services, unless in the meantime the Client has made a claim in writing to the Agent, specifying a negligent act, omission or statement said to have caused alleged loss or damage sustained or sustainable.
- 18.5 Notwithstanding clauses 18.1 to 18.4, the Agent shall not be liable for any loss or damage sustained or sustainable by a Client in relation to:
- (a) errors occurring in plans, designs or specifications not created or prepared by the Agent;
 - (b) errors occurring during the course of any services which are not provided by, nor the responsibility of, the Agent;
 - (c) the use of any Products or other information of advice without the approval of the Agent.
- 19. Settlement of Disputes**
- 19.1 In the event of any dispute, both the Agent and the Client shall meet in order to try and resolve the dispute. Should the two parties then not be able to resolve the dispute, it shall be referred by both parties to a neutral mediator to attempt to secure a negotiated settlement. Should such a settlement not be forthcoming, the matter can then be taken up by each parties legal representatives.
- 20. Compliance with Laws**
- 20.1 The Client and the Agent shall comply with the provisions of all statutes (including but not limited to, the Radiation Safety Act, ARPANS Act and Mines Safety and Inspection Act, Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), Radiation Safety Act 1975 (WA), Radiation Safety (General)Regulations 1983 (WA), Radiation Safety (Transport of radioactive substances) Regulations 2002 (WA), Mine Safety and Inspection Act 1994 (WA), Mine Safety and Inspection Regulations 1995 (WA), Section 16), regulations and bylaws of government, local and other public authorities that may be applicable to the Services.

- 20.2 Notwithstanding clause 20.1 both parties shall also comply with all relevant International statutes and guidelines including, but not limited to the International Maritime Dangerous Goods Code, International Atomic Energy Agency (IAEA) Regulations, Codes and Guidelines.
- 21. Unpaid Seller's Rights**
- 21.1 Where the Client has left any item with the Agent for repair, modification, exchange or for the Agent to perform any other service in relation to the item and the Agent has not received or been tendered the whole of any monies owing to it by the Client, the Agent shall have, until all monies owing to the Agent are paid:
- (a) a lien on the item; and
 - (b) the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.
- 21.2 The lien of the Agent shall continue despite the commencement of proceedings, or judgment for any monies owing to the Agent having been obtained against the Client.
- 22. Service of Notices**
- 22.1 Any written notice given under a contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this contract;
 - (c) by sending it by registered post to the address of the other party as stated in this contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in a contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 22.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.
- 23. Trusts**
- 23.1 If the Client at any time upon or subsequent to entering in to a contract is acting in the capacity of trustee of any trust (Trust) then whether or not the Agent may have notice of the Trust, the Client covenants with the Agent as follows:
- (a) the contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
 - (b) the Client has full and complete power and authority under the Trust to enter into a contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
 - (c) the Client will not without consent in writing of the Agent (the Agent will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Client as Trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.
- 24. General**
- 24.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected. These terms and conditions shall be governed by the law of Western Australia, the state in which the Agent has its principal place of business, and are subject to the jurisdiction of the Perth Courts in that state.
- 24.2 The Client shall not be entitled to set off against, or deduct from the Fee, any sums owed or claimed to be owed to the Client by the Agent nor to withhold payment of any invoice because part of that invoice is in dispute.
- 24.3 The Agent may licence and/or assign all or any part of its rights and/or obligations under this contract without the Client's consent.
- 24.4 The Client cannot licence or assign without the written approval of the Agent.
- 24.5 The Agent may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of the Agent's sub-contractors without the authority of the Agent.
- 24.6 The Client agrees that the Agent may amend these terms and conditions by notifying the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for the Agent to provide Goods to the Client.
- 24.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 24.8 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.