

Definitions and Interpretation: In this Contract: **Contract** means (in order of priority) a Purchase Order issued by Actemium; any schedules and attachments to a Purchase Order; and these Purchase Order Terms (or alternatively the terms of a Actemium Standing Agreement with the Supplier, if applicable) (**Terms**). **GST** means any goods and services tax, value added tax or sales tax imposed on the sale or supply of goods, services and rights. **Product** means any goods and/or services supplied under this Contract. **Actemium** means J&P Richardson Industries Pty Ltd T/A Actemium (ABN 23 001 952 325) and its related bodies corporate (as defined by sections 9 and 50 of the *Corporations Act 2001* (Cth)). **Specifications** means (in order of priority) (a) any requirement or standard for the Product requested by Actemium in the Contract (b) any description or representation about the Products provided to Actemium and referred to in the Contract, and (c) the Supplier's published specifications for the Products. **Supplier** means the person, firm or corporation from whom goods or services are ordered under this Contract. **Tax Invoice** means an invoice regulated by GST laws. **Applicable Law:** The laws of Queensland apply to this Contract.

Contract Formation: A binding Contract between Actemium and the Supplier will come into existence on the earlier of the date the Supplier confirms acceptance of the Purchase Order, or the Supplier commences delivery of any of the Products. The terms of the Contract shall exclude any conditions of sale or contract appearing on any document provided by the Supplier. Any purported modification of the Contract expressed in any document of the Supplier shall not apply to the Contract unless expressly accepted in writing by Actemium.

Delivery: The Supplier must deliver the Products to the delivery address on the delivery date and in accordance with the delivery instructions (if any) specified in the Purchase Order.

Inspection and Acceptance: Actemium or its authorised agent has the right to inspect and has the right to reject any Products that do not conform to this Contract. If the Products do not comply with the Specifications, at no additional cost to Actemium, Actemium may: (a) terminate this Contract and require the Supplier to remove any non-conforming Product; or (b) require the Supplier to promptly modify or resupply the Products and remove any non-conforming Product, so that they comply with the Specifications. Execution of a delivery document or payment by Actemium does not constitute acceptance by Actemium. Where the Supplier fails to remove any non-conforming Product as required by the Contract, within 14 days, Actemium may dispose of the Product at its own discretion and at the cost of the Supplier.

Price and Payment: The prices are fixed and the Total Price includes all levies, duties, taxes (including GST, unless expressly stated as being exclusive of GST), insurance, packaging and delivery costs. The total amount payable by Actemium under this Contract will not exceed the Total Price. Unless otherwise agreed in writing by Actemium, the Supplier may only invoice Actemium on the completion of the services or on or after the delivery of the goods. Each invoice must state the Purchase Order Number. The Supplier will provide any information Actemium reasonably requires (including, where applicable, evidence of unencumbered title to goods and payments to subcontractors) in relation to the Products or the amounts claimed. Unless otherwise specified on the Purchase Order, Actemium will pay a correctly rendered, valid Tax Invoice (less any amounts due to Actemium from the Supplier) 45 days from the end of the month in which the invoice was dated. Actemium is entitled to withhold payment of any invoice to the extent that it relates to Products that do not meet the Specifications. **ABN:** If the Supplier fails to provide an Australian Business Number (**ABN**), Actemium will withhold an amount of tax (at the rate required by the Australian Tax Office "ATO") from any payment it makes to the Supplier for a supply and remit the amount of that tax to the ATO in accordance with legislation.

Risk, Title and PPSA: Risk in the Products will pass to Actemium when the Products are delivered. Title in the Products will pass to Actemium on the earlier of acceptance or payment for the Products. The Supplier warrants that Actemium will be entitled to clear, complete, unencumbered and quiet possession of the Products. In this clause PPSA means the *Personal Property Securities Act 2009*. If a term used in this clause has a particular meaning in the PPSA, unless the context requires otherwise, it has the same meaning in this clause. The parties acknowledge that this Contract (or transactions in connection with it) may constitute Security Interests. If a party ("Secured Party") determines that this Contract (or a transaction in connection with it) is or contains a Security Interest (which may be a Purchase Money Security Interest), the other party ("Grantor") agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which the Secured Party may request and considers and necessary for the purposes of: (a) ensuring

that the Security Interest is enforceable, perfected and otherwise effective; (b) enabling the Secured Party to apply for any registration, complete any Financing Statement or give any notification, in connection with the Security Interest; or (c) enabling the Secured Party to exercised rights in connection with the Security Interest. The Grantor waives and provides an on-going waiver of the Grantor's right to receive a verification statement in respect of any financing statement and agree to the extent permitted by law that where the Secured Party has rights in addition to, or existing separately from those in Chapter 4 of the PPSA, those rights will continue to apply and in particular will not be limited by Part 4.3 and the Grantor agrees to waive its rights as debtor under Part 4.3 in Chapter 4.

Intellectual Property Rights (IPR): The Supplier assigns (now and in the future) to Actemium all IPR in any material created for Actemium in the supply of the Products. The Supplier grants Actemium (and its contractors) a non-exclusive paid-up, royalty free, perpetual license to use and copy the Products so that Actemium (and its customers) can make full use of them. Actemium owns IPR in any modifications by Actemium to the Products.

Warranty: The Supplier warrants that: (a) all goods supplied by the Supplier: (i) are new and in good condition; (ii) comply with all relevant Australian standards and industry codes; (iii) are free from defects in design, materials and workmanship; (iv) are of good and merchantable quality and fit for their intended purposes; and (v) comply with the Specifications; (b) any services supplied by the Supplier will: (i) be supplied with the degree of skill, care and diligence that would be expected of a skilled professional experienced in providing the same or similar services; (ii) comply with the Specifications; and (c) the Products and their use and supply will not breach any obligation of confidence or infringe any IPR of any person.

Breach of Warranty: If the Supplier becomes aware, or Actemium notifies the Supplier, that a Product fails to comply with any of the warranties given under this Contract, the Supplier must, without prejudice to any other rights of Actemium: (a) in the case of the warranties provided under paragraph (a) of the Warranty clause, during the period of 12 months (or such longer period as may be agreed) from the acceptance of the Product, remedy any noncompliance to Actemium's absolute satisfaction; and (b) in the case of any other warranty provided under this Contract, promptly (at Actemium's option): (i) remedy that failure (including by replacing or resupplying the Product), or (ii) provide to Actemium a full refund of the price paid for the Product. Actemium may deduct the price paid for the Product from any amounts owing to the Supplier.

Suppliers personnel The Supplier acknowledges that it is responsible for ensuring payment of all remuneration, workers compensation, payroll tax (if applicable) and other such payments relevant to the Supplier's employees in connection with the supply of the Product. The Supplier upon request will provide Actemium with confirmation of meeting its obligations under this clause. Actemium may make any payment or withhold any amount in respect of such payments, providing it gives the Supplier documentary evidence of such payment. The Supplier agrees to indemnify Actemium against for any claim made against it relating to the Supplier's employees in connection with the performance of this Contract by the Supplier.

Health and Safety and Behaviour on Actemium Sites: The Supplier must carry out its obligations under this Contract in a way that is safe and without risk to the health of its employees and contractors, Actemium's employees and contractors and any person who may come into contact with the Products. The Supplier will comply with all lawful directions given by Actemium's representative or any person authorised to give directions and provide all such information and assistance as Actemium reasonably requires in connection with any statutory investigation in connection with the supply of goods or performance of services under this Contract. The Supplier must prepare all necessary documents recording the procedures and policies it will employ to ensure it meets its obligations under this clause and must make all such documents available to Actemium on request. Without prejudice to any other rights it may have, Actemium may suspend or terminate this Contract if Actemium considers that the Supplier's policies, procedures or documents are inadequate to meet the obligations of this clause.

Indemnity: The Supplier indemnifies Actemium against all claims, costs, losses and damages (on a full indemnity basis), including third party claims (**Loss**) that Actemium may sustain or incur, whether directly or indirectly, arising out of or in connection with the Products or an act or omission by the Supplier, including any Loss arising out of breach of this Contract or warranty, any tort (including negligence), willful misconduct or breach of a law, or a breach of confidentiality or infringement of third party IP rights. **Insurance:** The Supplier must take out and maintain with a reputable insurer valid and enforceable insurance policies of the following types and for the coverage

specified: (a) Public and Product Liability insurance covering the Supplier against any liability to any party arising out of or in connection with this Contract for an insured amount of not less than A\$20 million per accident or incident claim; (b) Workers Compensation insurance covering the Supplier for any claim against it by any person employed by the Supplier who provides services in relation to this Contract for an amount necessary to cover any potential liability under statute or at common law; and (c) Property insurance covering the Supplier for any loss or damage to any property used directly or indirectly in connection with the Products. The Supplier must ensure that all subcontractors similarly insure as is appropriate given the nature of the goods or services supplied by those subcontractors. The Supplier will effect any other insurances reasonably required by Actemium from time to time. On request from Actemium, the Supplier will provide copies of a certificate of currency of each of the insurances.

Assignment and Subcontracting: The Supplier must not assign the whole or any part of this Contract or use any subcontractors for supply of the Products without Actemium's prior written consent. If the Supplier uses a subcontractor, the Supplier remains liable for the subcontractor's performance.

Cancellation: Actemium may cancel or reduce the quantity of a Product by notifying the Supplier before the relevant delivery date or if the Supplier fails to supply a Product on the delivery date. Actemium will not be liable for any amounts or expenses for cancelled Product. **Termination:** If the Supplier: (a) fails to deliver the Product by the date for delivery; or (b) is at a rate of progress that is not satisfactory to Actemium; or (c) is in breach of these conditions; or (d) has neglected or omitted to carry out any direction of Actemium in respect of the Contract; or (e) has intimated that it is unwilling or unable to complete its obligations under the Contract; or (f) becomes insolvent or committed an act of bankruptcy or has taken any step to appoint a receiver, administrator or liquidator, Actemium may, without prejudice to any other rights it may have, by giving notice in writing, terminate the Contract and make such other arrangements as Actemium may consider necessary. Any additional expenditure incurred by Actemium in connection therewith shall be a debt due from the Supplier to Actemium. The failure by Actemium to exercise any right or remedy in relation to any specific default by the Supplier, including by terminating this Contract or any part thereof when such a right arises shall not constitute a waiver by Actemium of any of its rights pursuant to this Contract.

Termination for Convenience: Actemium may terminate the Contract at its absolute discretion without assigning any reason for the termination and under such circumstances Actemium shall pay the Supplier for any Product delivered prior to the date of termination and shall reimburse the Supplier for such reasonable costs otherwise incurred as a result of the Contract being terminated. Actemium's liability to the Supplier shall under no circumstances exceed the amount for the Product otherwise payable under the Contract.

Confidentiality: This Contract and any information which the Supplier obtains from Actemium relating to this Contract (whether in writing or otherwise) is Actemium's confidential information unless it is: (a) public knowledge at the time it is obtained by the Supplier, or (b) in the Supplier's lawful possession prior to being obtained from Actemium. The Supplier must keep Actemium's confidential information confidential, safe and secure, not disclose it to any person (except personnel of the Supplier who have a need to know and who have been advised of the confidential nature of the information) and return it when it has performed all of the work under this Contract or this Contract terminates or expires. The Supplier, its employees, agents or representatives may not make any public statement about this Contract unless it has first obtained written consent from Actemium. **Compliance with Law:** The Supplier in performance of this Contract must ensure that it and its subcontractors: (i) comply with all relevant legislation and regulations, including applicable laws relating to anti-corruption and anti-bribery laws, employment conditions, modern slavery, equal opportunity and discrimination, competition and consumer laws, privacy laws in relation to Personal Information, road and transport laws (including Chain of Responsibility Legislation) and environmental laws; (ii) comply with all relevant Actemium policies (as notified to the Supplier from time to time), including [Actemium's Supplier Code of Conduct](#) and (iii) any relevant Australian standards and industry codes or practice. The Supplier acknowledges that the National Code of Practice for the Construction Industry ("Code") and the Australian Government guidelines for the Code ("Guidelines") may apply to this Contract and by agreeing to undertake the delivery of the Products, it is taken to have read and agreed to comply with the Code and Guidelines and to be able to demonstrate compliance.