

GENERAL TERMS AND CONDITIONS AND SECURITY AGREEMENT

IN CONSIDERATION of 3D Siteworx ACN 641 810 960 ABN 90 641 810 960 (hereinafter referred to as “3D Siteworx”) providing commercial credit facilities to the party completing the application (hereinafter referred to as “the Customer”) annexed to these conditions:

- (i) “3D SITEWORX” means 3D Siteworx ACN 641 810 960 ABN 90 641 810 960, its successors and assigns or any person acting on behalf of and with the authority of 3D Siteworx ACN 641 810 960 ABN 90 641 810 960.
- (ii) The Customer acknowledges and agrees that the following applies to and forms part of any contract for the supply of Services and/or Goods provided by 3D SITEWORX and that these General Terms and Conditions take precedence over any terms and conditions which may be contained in any document provided by the Customer. Any request from the Customer to 3D SITEWORX for the supply of Services and/or Goods shall constitute acceptance of these general terms and conditions.
- (iii) The Customer acknowledges that where the Customer consists of more than one party or entity, liability shall be joint and several.
- (iv) These terms and conditions, including any Credit Limits set by 3D SITEWORX, are effective from the date of acceptance by the Customer and may be amended or superseded from time to time by notice given by 3D SITEWORX by any means. Unless or except specifically excluded herein, 3D SITEWORX and the Customer retain any rights and remedies available to them in any prior or pre-existing agreement.
- (v) “Services” means all Services and/or Goods supplied by 3D SITEWORX to the Customer, or ordered by the Customer but not yet supplied, and includes Services and/or Goods described on any quotation, invoice, purchase order or any other document including any recommendations and advice and over which 3D SITEWORX may intend to register a Security Interest and where the context so permits the terms “Services” and “Goods” shall be interchangeable for other.
- (vi) “Price” shall mean the cost of the Services as referred to in 3D SITEWORX’s prepared quotations & or specific arrangements and shall be subject to change from time to time.

1 Personal Property Securities Act (2009)

- 1.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 1.2 Upon assenting to these terms and conditions in writing the Customer 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 Services and/or Goods and/or collateral account – being a monetary obligation of the Customer to 3D SITEWORX for Services and/or Goods – that have previously been supplied and that will be supplied in the future by 3D SITEWORX to the Customer.
- 1.3 The Customer 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 3D SITEWORX 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 1.3(a)(i) or 1.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, 3D SITEWORX 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 Goods charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of 3D SITEWORX;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of 3D SITEWORX;
 - (e) immediately advise 3D SITEWORX of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 1.4 3D SITEWORX and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 1.5 The Customer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 1.6 The Customer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 1.7 Unless otherwise agreed to in writing by 3D SITEWORX, the Customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- 1.8 The Customer shall unconditionally ratify any actions taken by 3D SITEWORX under clauses 1.3 to 1.5.
- 1.9 Subject to any express provisions to the contrary (including those contained in this clause 1) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

2 Privacy

- 2.1 The Customer agrees for 3D SITEWORX 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 Customer in relation to credit provided by 3D SITEWORX.
- 2.2 The Customer agrees that 3D SITEWORX may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:
 - (a) to assess an application by the Customer; and/or
 - (b) to notify other credit providers of a default by the Customer; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Customer including the Customer’s repayment history in the preceding two (2) years.
- 2.3 The Customer consents to 3D SITEWORX being given a consumer credit report to collect overdue payment on commercial credit.
- 2.4 The Customer agrees that personal credit information provided may be used and retained by 3D SITEWORX 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 Customer’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 Customer; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Services.
- 2.5 3D SITEWORX may give information about the Customer 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 Customer including credit history.
- 2.6 The information given to the CRB may include:
 - (a) personal information as outlined in 2.1 above;
 - (b) name of the credit provider and that 3D SITEWORX is a current credit provider to the Customer;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Customer’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 Customer no longer has any overdue accounts and 3D SITEWORX has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of 3D SITEWORX, the Customer has committed a serious credit infringement;
 - (h) advice that the amount of the Customer’s overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 2.7 The Customer shall have the right to request (by e-mail) from 3D SITEWORX:
 - (a) a copy of the information about the Customer retained by 3D SITEWORX and the right to request that 3D SITEWORX correct any incorrect information; and
 - (b) that 3D SITEWORX does not disclose any personal information about the Customer for the purpose of direct marketing.
- 2.8 3D SITEWORX will destroy personal information upon the Customer’s request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this contract or is required to be maintained and/or stored in accordance with the law.
- 2.9 The Customer can make a privacy complaint by contacting 3D SITEWORX via e-mail. 3D SITEWORX 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 Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.

3 Price and Payment

- 3.1 By prior arrangement the Price shall be either:
- (a) as indicated on invoices provided by 3D SITEWORX to the Customer in respect of Services performed or Goods supplied; or
 - (b) 3D SITEWORX's quoted Price (subject to clause 3.2) which shall be binding upon 3D SITEWORX provided that the Customer shall accept 3D SITEWORX's quotation in writing within thirty (30) days of the date of the quotation.
 - (c) A ten percent (10%) deposit is required to be paid prior to the commencement of the Services or the delivery of the Goods.
- 3.2 3D SITEWORX reserves the right to change the Price:
- (a) if a variation to the Goods which are to be supplied and or installed is requested; or
 - (b) if a variation to the Services originally scheduled (including any specifications) is requested; or
 - (c) where additional Services are required due to budget management issues occurring prior to the commencement of the Services; or
 - (d) in the event of increases to 3D SITEWORX in the cost of labour or Goods which are beyond 3D SITEWORX's control.
- 3.3 Variations will be charged for on the basis of 3D SITEWORX's quotation, and will be detailed in writing, and shown as variations on 3D SITEWORX's invoice. The Customer shall be required to respond to any variation submitted by 3D SITEWORX within seven (7) days. Failure to do so will entitle 3D SITEWORX to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 3.4 Time for payment for the Services being of the essence, the Price will be payable by the Customer on the date/s determined by 3D SITEWORX, which failing any notice to the contrary, the date which is fourteen (14) days following the date of any invoice given to the Customer by 3D SITEWORX. A period of thirty (30) days may be afforded to approved customers.
- 3.5 Payment may be made by cash on delivery, bank cheque, cheque or electronic/on-line banking.
- 3.6 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by 3D SITEWORX nor to withhold payment of any invoice because part of that invoice is in dispute.
- 3.7 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to 3D SITEWORX an amount equal to any GST 3D SITEWORX must pay for any supply by 3D SITEWORX under this or any other contract for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

4 Default and Consequences of Default

- 4.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of 2.0% per calendar month and interest shall be calculated monthly at such a rate after as well as before any judgment.
- 4.2 If the Customer owes 3D SITEWORX any money the Customer shall indemnify 3D SITEWORX from and against all costs and disbursements incurred by 3D SITEWORX in recovering the debt including but not limited to internal administration fees, collection agent commission, legal costs on a solicitor and own Customer basis, 3D SITEWORX's contract default fee, and bank dishonour fees.
- 4.3 Further to any other rights or remedies 3D SITEWORX may have under this contract, if a Customer has made payment to 3D SITEWORX, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by 3D SITEWORX under this clause 4 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this contract.
- 4.4 Without prejudice to 3D SITEWORX's other remedies at law 3D SITEWORX shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to 3D SITEWORX shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to 3D SITEWORX becomes overdue, or in 3D SITEWORX's opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer has exceeded any applicable credit limit provided by 3D SITEWORX;
 - (c) the Customer becomes insolvent or bankrupt, 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
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

5 Security and Charge

- 5.1 In consideration of 3D SITEWORX agreeing to supply the Goods, the Customer 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 Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 5.2 The Customer indemnifies 3D SITEWORX from and against all 3D SITEWORX's costs and disbursements including legal costs on a solicitor and own Customer basis incurred in exercising 3D SITEWORX's rights under this clause.
- 5.3 The Customer irrevocably appoints 3D SITEWORX and each director of 3D SITEWORX as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 5 including, but not limited to, signing any document on the Customer's behalf.

6 Title

- 6.1 3D SITEWORX and the Customer agree that ownership of the Goods shall not pass until:
- (a) the Customer has paid 3D SITEWORX all amounts owing to 3D SITEWORX; and
 - (b) the Customer has met all of its other obligations to 3D SITEWORX.
- 6.2 Receipt by 3D SITEWORX 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.
- 6.3 It is further agreed that until ownership of the Goods passes to the Customer in accordance with clause 6.1:
- (a) the Customer is only a bailee of the Goods and unless the Goods have become fixtures must return the Goods to 3D SITEWORX on request.
 - (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for 3D SITEWORX and must pay to 3D SITEWORX the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
 - (c) the production of these terms and conditions by 3D SITEWORX shall be sufficient evidence of 3D SITEWORX's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with 3D SITEWORX to make further enquiries.
 - (d) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for 3D SITEWORX and must pay or deliver the proceeds to 3D SITEWORX on demand.
 - (e) the Customer should not convert or process the Goods or intermix them with other Goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of 3D SITEWORX and must sell, dispose of or return the resulting product to 3D SITEWORX as it so directs.
 - (f) unless the Goods have become fixtures the Customer irrevocably authorises 3D SITEWORX to enter any premises where 3D SITEWORX believes the Goods are kept and recover possession of the Goods.
 - (g) 3D SITEWORX may recover possession of any Goods in transit whether or not delivery has occurred.
 - (h) The Customer will not charge or grant an encumbrance on Goods or give away any interest in the Goods while they remain the property of 3D SITEWORX.
 - (i) 3D SITEWORX may start proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

7 Risk

- 7.1 If 3D SITEWORX retains ownership of the Goods under clause 6 then where 3D SITEWORX is supplying Goods only, all risk for the Goods shall immediately pass to the Customer on delivery and the Customer must insure the Goods on or before delivery. Delivery of the Goods shall be deemed to have taken place immediately at the time that either:
- (a) the Customer or the Customer's nominated carrier takes possession of the Goods at 3D SITEWORX's address; or
 - (b) the Goods are delivered by 3D SITEWORX or 3D SITEWORX's nominated carrier to the Customer's nominated delivery address (even if the Customer is not present at the address).
- 7.2 In conjunction with the provisions of clause 7.1 the Customer authorises 3D SITEWORX right to claim insurance monies direct from the Customer's insurer.
- 7.3 Where the Customer has supplied Goods for 3D SITEWORX to complete the Services, the Customer acknowledges and accepts responsibility for the suitability of purpose, quality and any faults inherent in the Goods. 3D SITEWORX shall not be responsible for any defects in the Goods, any loss or damage howsoever arising from the use of Goods supplied by the Customer.

8 Compliance with Laws

- 8.1 Both the Customer and 3D SITEWORX agree that they will at all times ensure that they comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services

9 Delivery

- 9.1 Goods may be collected by the Customer at 3D SITEWORX address or by the Customer's nominated carrier.
9.2 Goods may be delivered by 3D SITEWORX by 3D SITEWORX or their nominated carrier.
9.3 All times and dates specified for delivery are an estimate only.
9.4 The cost of delivery is in addition to the Price.
9.5 The cost of re-delivery/storage is at the customer's expense.

10 Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 10.1 The Customer must inspect all Goods on delivery (or the Services on completion) and must within twenty four (24) hours of delivery notify 3D SITEWORX in writing of any evident defect, damage, shortage in quantity, or failure to comply with the description or quotation. The Customer must notify any other alleged defect in the Goods and/or Services as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow 3D SITEWORX to inspect the Goods or to review the Services provided.
- 10.2 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).
- 10.3 3D SITEWORX acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 10.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, 3D SITEWORX makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods and/or Services. 3D SITEWORX's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 10.5 If the Customer is a consumer within the meaning of the CCA, 3D SITEWORX's liability is limited to the extent permitted by section 64A of Schedule 2.
- 10.6 If 3D SITEWORX is required to replace any Goods under this clause or the CCA, but is unable to do so, 3D SITEWORX may refund any money the Customer has paid for the Goods.
- 10.7 If 3D SITEWORX is required to rectify, re-supply, or pay the cost of re-supplying the Services under this clause or the CCA, but is unable to do so, then 3D SITEWORX may refund any money the Customer has paid for the Services but only to the extent that such refund shall take into account the value of Services and Goods which have been provided to the Customer which were not defective.
- 10.8 If the Customer is not a consumer within the meaning of the CCA, 3D SITEWORX's liability for any defect or damage in the Goods is:
- limited to the value of any express warranty or warranty card provided to the Customer by 3D SITEWORX at 3D SITEWORX's sole discretion;
 - limited to any warranty to which 3D SITEWORX is entitled, if 3D SITEWORX did not manufacture the Goods;
 - otherwise negated absolutely.
- 10.9 Returns will only be accepted provided that:
- 3D SITEWORX has agreed that the Goods are defective; and
 - the Goods are returned within a reasonable time at the Customer's cost (if that cost is not significant); and
 - the Goods are returned in as close a condition to that in which they were delivered as is possible.
- 10.10 Notwithstanding clauses 10.1 to 10.9 but subject to the CCA, 3D SITEWORX shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- the Customer failing to properly maintain or store any Goods;
 - the Customer using the Goods for any purpose other than that for which they were designed;
 - the Customer continuing to use any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - interference with the Services by the Customer or any third party without 3D SITEWORX's prior approval;
 - the Customer failing to follow any instructions or guidelines provided by 3D SITEWORX;
 - fair wear and tear, any accident, or act of God.
- 10.11 Notwithstanding anything contained in this clause if 3D SITEWORX is required by a law to accept a return then 3D SITEWORX will only accept a return on the conditions imposed by that law.

11 Cancellation

- 11.1 Without prejudice to any other remedies 3D SITEWORX may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions 3D SITEWORX may suspend or terminate the supply of Goods to the Customer.
- 11.2 3D SITEWORX will not be liable to the Customer for any loss or damage the Customer suffers because 3D SITEWORX has exercised its rights under this clause.
- 11.3 3D SITEWORX may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Services are commenced by giving written notice to the Customer. On giving such notice 3D SITEWORX shall repay to the Customer any sums paid in respect of the Price, less any amounts owing by the Customer to 3D SITEWORX for Services already performed. 3D SITEWORX shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 11.4 In the event that the Customer cancels the delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by 3D SITEWORX as a direct result of the cancellation (including, but not limited to, any loss of profits).

12 Intellectual Property

- 12.1 Where 3D SITEWORX has designed, drawn or developed Goods for the Customer, then the copyright in any designs, drawings and documents shall remain the property of 3D SITEWORX. Under no circumstances may such designs, drawings and documents be used without the express written approval of 3D SITEWORX.
- 12.2 The Customer agrees that 3D SITEWORX may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, plans or products which 3D SITEWORX has created for the Customer.

13 Jurisdiction

- 13.1 This agreement shall be construed in accordance with laws of the State of south Australia and, where applicable the Commonwealth of Australia and the Customer submits to the non-exclusive jurisdiction of the courts in South Australia.
- 13.2 3D SITEWORX shall have exclusive right to nominate the Court in which any legal action is to be commenced and conducted.

14 Acceptance

- 14.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of any Services.
- 14.2 These terms and conditions may only be amended with the consent of both parties in writing and shall prevail to the extent of any inconsistency with any other document or contract between the Customer and 3D SITEWORX.
- 14.3 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 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

15 Errors and Omissions

- 15.1 The Customer acknowledges and accepts that 3D SITEWORX shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- resulting from an inadvertent mistake made by 3D SITEWORX in the formation and/or administration of this contract; and/or
 - contained in/omitted from any literature (hard copy and/or electronic) supplied by 3D SITEWORX in respect of the Services.
- 15.2 In the event such an error and/or omission occurs in accordance with clause 18.1, and is not attributable to the negligence and/or willful misconduct of 3D SITEWORX the Customer shall not be entitled to treat this contract as repudiated nor render it invalid.

16 Change in Control

- 16.1 The Customer shall give 3D SITEWORX not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, email address, change of trustees or business practice). The Customer shall be liable for any loss incurred by 3D SITEWORX as a result of the Customer's failure to comply with this clause.

17 Customer Responsibilities

- 17.1 The Customer warrants that the information set out in the quotation is correct and that the Customer has disclosed to 3D SITEWORX all information relevant to 3D SITEWORX providing the quotation.
- 17.2 The Customer agrees to follow the procedures as notified in writing by 3D SITEWORX to the Customer in using the Goods.
- 17.3 The Customer agrees to comply with all occupational health and safety and other laws, standards or guidelines in relation to the use of the Goods and the management of the Customer's premises; and shall be responsible for any damage to or destruction of the Goods caused by any person whatsoever other than the servants, agents or employees of 3D SITEWORX.
- 17.4 If 3D SITEWORX notifies the Customer that it intends to store onsite Goods, plant, equipment or tools to be used in performance of the Services, then the Customer shall designate an area for storage and shall take all reasonable precautions to protect such items against destruction, damage, or theft. In the event that such items are destroyed, damaged or stolen then the cost of the replacement shall be added to the Price and will be shown as a variation pursuant to clause 3.3.

18 Compliance with Laws

- 18.1 The Customer and 3D SITEWORX shall comply with the provisions of all statutes, regulations and by laws of government, local and other public authorities that may be applicable to the Services.
- 18.2 The Customer shall obtain (at the expense of the Customer) all licenses and approvals that may be required for the Services.
- 18.3 The Customer agrees that the site will comply with any work health and safety (WHS) laws relating to building/construction sites and any other relevant safety standards or legislation.

19 Service of Notices

- 19.1 Any written notice given under this 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 this contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 19.2 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.

20 Trusts

- 20.1 If the Customer at any time upon or subsequent to entering into the contract is acting in the capacity of trustee of any trust ("Trust") then whether or not 3D SITEWORX may have notice of the Trust, the Customer covenants with 3D SITEWORX as follows:
- (a) the contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;
 - (b) the Customer has full and complete power and authority under the Trust to enter into the contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Customer against the Trust or the trust fund. The Customer 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 Customer will not without consent in writing of 3D SITEWORX (3D SITEWORX will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events;
 - (i) the removal, replacement or retirement of the Customer 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.

21 Force Majeure

Neither party shall be liable for any default due to any act of God, war, terrorism, pandemic, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

22 General

- 22.1 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, prejudiced or impaired.
- 22.2 3D SITEWORX shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by 3D SITEWORX of these terms and conditions (alternatively 3D SITEWORX's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).
- 22.3 3D SITEWORX may licence and/or assign all or any part of its rights and/or obligations under this contract without the Customer's consent.
- 22.4 The Customer cannot licence or assign without the written approval of 3D SITEWORX.
- 22.5 3D SITEWORX 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 Customer agrees and understands that they have no authority to give any instruction to any of 3D SITEWORX's sub-contractors without the authority of 3D SITEWORX.
- 22.6 The Customer agrees that 3D SITEWORX may amend these terms and conditions by notifying the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for 3D SITEWORX to provide Services to the Customer.
- 22.7 Both parties warrant that they have the power to enter into this contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this contract creates binding and valid legal obligations on them.

23 Terms Specifically Applicable to the Hire of Goods Only

- 23.1 Hire Period:
- (a) The Hire Period shall commence from the time the Goods depart from 3D SITEWORX premises, and will continue until the return of the Goods to 3D SITEWORX's premises, and/or until the expiry of the Minimum Hire Period, whichever last occurs. Additional charges will apply in the event that the Customer requests an extension of the Hire Period;
 - (b) The date upon which the Customer advises of termination shall in all cases be treated as a full day's hire.
 - (c) No allowance whatever can be made for time during which the Goods are not in use for any reason, unless 3D SITEWORX confirms special prior arrangements in writing. In the event of breakdown of the Goods, provided the Customer notifies 3D SITEWORX immediately, hire charges will not be payable during the time the Goods are not functional, unless the condition is due to negligence or misuse on the part of or attributable to the Customer.
- 23.2 Customer's Obligations:
- (a) The Customer shall:
 - (i) satisfy itself on Delivery that the Goods are suitable for its purposes;
 - (ii) maintain the Goods as is required by 3D SITEWORX;
 - (iii) notify 3D SITEWORX immediately by telephone of the full circumstances of any mechanical malfunction, damage, loss, destruction or accident in connection with the Goods. The Customer is not absolved from the requirements to safeguard the Goods by giving such notification.
 - (iv) use the Goods safely, strictly in accordance with the law (in full compliance with all health and safety regulations relating to their use and any other relevant laws and regulations), only for their intended use, and in accordance with any manufacturer's instruction, whether supplied by 3D SITEWORX or posted on the Goods;
 - (v) keep the Goods in their own possession and control and shall not assign the benefit of this hire contract nor be entitled to take a lien, or grant any encumbrance over the Goods. This does not prevent the employees of the Customer using the Goods;
 - (vi) not alter or make any additions to the Goods (including, but without limitation, altering, make any additions to, defacing or erasing any identifying mark, plate or number on the Goods), or in any other manner interfere with the Goods, as doing so may undermine the structure and safety of the Goods. 3D SITEWORX will photograph, in detail, the Goods once erected as proof of this;
 - (vii) employ the Goods solely in their own work and not permit the Goods (or any part thereof) to be used by any other party for any other work;
 - (viii) not exceed the recommended or legal load and capacity limits of the Goods;

- (ix) not use or place any illegal, prohibited or dangerous substance on the Goods;
 - (x) not fix the Goods (or any part thereof) in such a manner as to make them legal fixtures forming part of any freehold;
 - (xi) on termination of the hire, deliver up the Goods, complete with all parts and accessories, clean and in good order, as delivered, fair wear and tear accepted, to 3D SITEWORX.
- (b) Immediately on request by 3D SITEWORX the Customer will pay:
- (i) the new list price of any Goods (or any part thereof) that are, for whatever reason, destroyed, irrecoverable, or not returned to 3D SITEWORX;
 - (ii) all costs incurred in cleaning the Goods if the Goods are deemed by 3D SITEWORX (at their sole discretion) to be excessively dirty;
 - (iii) all costs of repairing any damage to the Goods caused by:
 - (A) the ordinary use of the Goods up to an amount equal to ten percent (10%) of the new list price of the Goods;
 - (B) caused by the negligence of the Customer or the Customer's agent;
 - (C) caused by vandalism, or (in 3D SITEWORX's reasonable opinion) in any way whatsoever other than by the ordinary use of the Goods by the Customer;
- (c) any lost hire charges 3D SITEWORX would have otherwise been entitled to for the Goods, under this, or any other agreement;
- (d) the cost of fuels and consumables provided by 3D SITEWORX and used by the Customer.
- 23.3 Only to the extent that the hire of the Goods exceeds a twenty four (24) month hire period (or ninety (90) days hire period with the right of renewal) shall clause 1 apply, and this agreement a security agreement for the purposes of PPSA generally, and in particular Section 20.
- 23.4 No warranty is given by 3D SITEWORX as to the quality or suitability of the Goods for any purpose, and any implied warranty is expressly excluded. The Customer shall indemnify and hold harmless 3D SITEWORX in respect of all claims arising out of the use of the Goods.

I have read and understood this document and have been advised, and given opportunity, to seek independent legal advice.

I warrant by signature attached or overleaf that the information given in support of this application is true and correct. I further warrant that I am authorised to sign on behalf of the Customer and to bind the Customer in contract.

Completing a Credit Application does not infer that credit will be granted.

The document must be completed in full, with no alterations or deletions. Any such alterations or deletions will void the application and a new form will need to be completed. Small Business applicants are advised that, should any of the Terms or Conditions contained herein be considered by them to be 'unfair', they should contact 3D SITEWORX to further discuss and negotiate before proceeding with the application.

3D SITEWORX reserves the right to refuse credit to any Applicant without explanation.

3D SITEWORX reserves the right to suspend or withdraw credit facilities at any time without notice. Special Note: if the Customer acts as, or is part of, a Trust/Nominee Entity then the provision of personal guarantee/s from the Trust Beneficiary/Beneficiaries is required to process this application.

GUARANTEE AND INDEMNITY

IN CONSIDERATION OF Australian Solar Maintenance Pty Ltd ACN 621 081 507 ABN 22 621 081 507 trading as Australian Solar Maintenance (hereinafter referred to as "3D SITEWORX") granting the Customer (as named in the Application for Credit and which forms a part of this document) trade credit, I/WE GUARANTEE payment to 3D SITEWORX of all monies and performance of all obligations including any past, present and future indebtedness or obligation by the Customer or any of us arising from any past, present or future dealing with 3D SITEWORX.

I/WE HEREBY AGREE & ACKNOWLEDGE:

- That this is a continuing guarantee and,
- To indemnify 3D SITEWORX against all loss or damage arising from any past, present or future dealing with the Customer or any of us,
- That our liability under this guarantee is joint and several and will not be affected, waived or discharged by the reason of any time or indulgences granted by 3D SITEWORX or any grant to any of the guarantors of a release whether in whole or in part from any obligation contained in or implied by this guarantee and indemnity and,
- That our liability under this guarantee shall not be affected, waived or discharged by the Customer entering into a Deed of Supplier Arrangement (DOCA) or by 3D SITEWORX voting in favor of or against, or abstaining from voting, in relation to any proposal by the Customer to enter a DOCA and,
- That this guarantee becomes binding on such of us that sign this guarantee irrespective of whether or not all intended signatories execute this guarantee and,
- That 3D SITEWORX is entitled to recover against a Guarantor without having first taken steps to recover against the Customer or any other Guarantor and,
- That this guarantee may not be unilaterally revoked by me or any of us and remains in force until such time as I/we receive written confirmation from 3D SITEWORX that we are released from our obligations and liabilities under this guarantee.
- That any payment which is subsequently avoided by any law relating to insolvency shall be deemed not to have been paid and,
- That I/we indemnify 3D SITEWORX against losses or costs that it may suffer as a result of disgorging monies to a liquidator of the Customer and,
- That I/we sign in both our personal capacity and as Trustee of every Trust of which I/we are Trustee and/or a beneficiary and,
- That I/we consent to 3D SITEWORX effecting a registration on the PPSA register (in any manner 3D SITEWORX deems appropriate) in relation to any security interest arising under or in connection with or contemplated by these terms and,
- That I/we waive my/our right to receive notice of a verification statement in relation to any registration on the register and,
- That I/we must promptly do any act or thing that 3D SITEWORX requires to ensure that 3D SITEWORX's interest is a perfected security interest and has priority over all of the other security interests and,
- That I/we will not register a financing change statement in respect of the security interest without 3D SITEWORX's prior written consent and,
- That 3D SITEWORX may, at its absolute discretion, apply any amounts received from me/us toward amounts owing to 3D SITEWORX in such order as 3D SITEWORX may determine and,
- That if Chapter 4 of the PPSA would otherwise apply to the enforcement of a security interest arising in connection with these terms, I/we agree that the following provisions of the PPSA will not apply to the enforcement of these terms: section 95 (notice of removal of accession), to the extent that it requires 3D SITEWORX to give a notice to the Customer; section 96 (when a person with an interest in the whole may retain an accession); subsection 121(4) (enforcement of liquid assets – notice to grantor); section 125 (obligation to dispose of or retain collateral); section 130 (notice of disposal), to the extent that it requires 3D SITEWORX to give a notice to the Customer; paragraph 132(3)(d) (contents of statement of account after disposal); subsection 132(4) (statement of account if no disposal); subsection 134(1) (retention of collateral); section 135 (notice of retention); section 142 (redemption of collateral); and, section 143 (reinstatement of security agreement) and,
- That notices or documents required or permitted to be given to 3D SITEWORX for the purposes of the PPSA must be given in accordance with the PPSA and,
- That 3D SITEWORX will not disclose information of the kind mentioned in subsection 275(1) of the PPSA except in circumstances required by paragraphs 275(7)(b)-(e) and,
- I/We must, upon demand, reimburse 3D SITEWORX for all costs and/or expenses incurred or payable by 3D SITEWORX in relation to registering or maintaining any financing statement or any other document in respect of any security interest or releasing in part or in whole 3D SITEWORX's security interest and,
- In these terms, the following words have the respective meanings given to them in the PPSA: commingled, financing statement, financing change statement, perfected, proceeds, register, registration, security interest and verification statement.

I/WE HEREBY CHARGE in favor of 3D SITEWORX all our estate and interest in any land and in any other assets, whether tangible or intangible, freehold or leasehold, in which I/we now have any legal or beneficial interest or in which I/we later acquire any such interest, with payment of all monies owed by the Customer to 3D SITEWORX. I/we shall, upon demand, execute such documents in registrable form, or do such other things as 3D SITEWORX requests to give further or better effect to the security granted by me/us to 3D SITEWORX and I/we consent to the lodging by 3D SITEWORX of a caveat or caveats which note its interest in or over any such land/or other caveatable property. In the event that I/we should neglect or fail to deliver the requested instrument of security or consent, I/we hereby appoint 3D SITEWORX to be my/our lawful attorney for the purpose of executing and registering such instruments.

I/WE FURTHER AGREE that this agreement shall be governed by and construed in accordance with the laws of the **State of South Australia** and, where applicable, the Commonwealth of Australia, and I/WE submit to the non-exclusive jurisdiction of the courts of **South Australia**.

Notice of Disclosure of Your Credit Information to a Credit Reporting Agency

I/We acknowledge and give consent that 3D SITEWORX may make enquiries as to the credit and financial situation of any of us and further consent to the use of any information obtained as a result of those enquiries, including information disclosed in the Credit Application, as 3D SITEWORX reasonably sees fit from time to time, and for the duration of this agreement, including but not limited to;

- passing the information on to a credit reporting agency
- passing the information on to a debt collector
- obtaining further personal information relating to any of us from another body for any use reasonably connected with provision of credit or the collection of debt subject to the provisions of the **Privacy Amendment (Enhancing Privacy Protection) Act 2012** which amends the **Privacy Act 1988 (Cth)**.
- the consent hereby given shall remain in force until all monies owing have been paid in full and the Customer no longer has an open account with 3D SITEWORX

GENERAL:

- "I" and "we" and "us" means each of the Guarantors jointly and severally.
- "PPSA" and "Goods" have the meaning ascribed to them in the Application for 30 Day Credit Account which forms a part of this document.
- The invalidity or unenforceability of any provision of this Guarantee and Indemnity shall not affect the validity or enforceability of the remaining provisions.
- Clerical errors are subject to correction and do not bind 3D SITEWORX.

I/We have read and understood this document and have been advised, and given opportunity, to seek independent legal advice.

<hr/> Guarantor Name (Print)	<hr/> Signature	<hr/> Date
<hr/> Witness Name (print)	<hr/> Signature	<hr/> Date
<hr/> Guarantor Name (Print)	<hr/> Signature	<hr/> Date
<hr/> Witness Name (print)	<hr/> Signature	<hr/> Date