

## TERMS AND CONDITIONS

### SUPPLY OF MATRIX GOODS, SERVICES, RENTAL ITEMS, ACOTEC PRODUCTS AND TRAINING

#### 1 DEFINITIONS

"**Affiliate**" means, in relation to any person, a business entity:

- (a) in which a person owns directly or indirectly 50% or more of the equity;
- (b) which owns directly or indirectly 50% or more of the equity of the person;
- (c) of which 50% or more of the equity is owned by a common parent company; or
- (d) which a person has the responsibility to operate and control, or to provide management and operational services.

"**Background Intellectual Property**" means:

- (a) in respect of the Client, Intellectual Property that is owned by or licensed to the Client independently of the Contract; and
- (b) in respect of Matrix, any Intellectual Property that is used by Matrix in the performance of the Work, incorporated into the Work or otherwise made available to the Client under or in connection with the Contract including Intellectual Property that is owned by or licensed to Matrix which exists prior to the date of the Contract or is otherwise developed or acquired by Matrix independently of the Contract.

"**Business Day**" means a day other than a Saturday, Sunday or day that is a gazetted public holiday in Perth, Western Australia.

"**Claim**" means any cost, demand, legal proceedings, claims, actions, fines, penalties, obligation, or liabilities of any nature (including reasonable legal costs on a full indemnity basis), arising under any statute or in equity or at common law or otherwise at law of whatsoever nature.

"**Client**" means the entity purchasing goods, services or renting Rental Items from Matrix as identified in Matrix's credit application, Contract or other document.

"**Client Group**" means the Client, its subcontractors (of any tier), its and their Affiliates and the foregoing's respective agents, representatives, directors, officers and employees (including agency personnel), or, where the context so permits, any or each of the foregoing, but does not include any member of the Matrix Group.

"**Consequential Loss**" means any indirect or consequential loss which includes loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit, loss of contract, however caused or arising whether by contract, tort, breach of duty or other legal doctrine or principle and whether or not foreseeable at the Effective Date.

"**Contract**" means the contract created between Matrix and Client by the issue of a contract or purchase order comprising these terms and conditions and all documentation accompanying the contract.

"**Damage**" includes damage, loss or destruction.

"**Data**" means all data and information (in whatever form such data may exist or be presented) and includes any:

- (a) compilation of data, data set or database; and
- (b) raw versions of data as well as interpreted or otherwise modified versions of data.

"**Data Privacy Laws**" include without limitation, to the extent applicable the Privacy Act 1988 (Cth) and the Australian Privacy Principles and any other applicable Law.

"**Delivery**" means the Goods are received by the Client at the Delivery Point.

"**Delivery Date**" means the date(s) upon which the Goods must be delivered as specified in the Contract.

"**Delivery Point**" means the location specified in the Contract per the agreed Incoterms.

"**Effective Date**" means the date on which the Parties entered into the Contract.

"**Goods**" means the goods to be provided in accordance with this Contract and/or as set out in the Quotation. Unless agreed otherwise, the Goods will not include any tools.

"**Governmental Authority**" means a governmental department, authority, instrumentality or agency having jurisdiction over the relevant matter and includes any governmental department,

authority, instrumentality or agency that replaces that Governmental Authority in its jurisdiction over that matter.

"**Insolvency Event**" means in relation to a party where they become bankrupt or make a composition or arrangement with their creditors or an order for their winding-up is made or (except for the purposes of a solvent amalgamation or reconstruction) a resolution for their voluntary winding-up is passed or a provisional liquidator, receiver, administrator or manager of their business or undertaking being appointed or presenting a petition or having a petition presented applying for an administration order to be made, or possession being taken by or on behalf of the holders of any debenture secured by a floating charge of any property comprised in or subject to the floating charge, or any equivalent act or thing being done or suffered under any Law applicable.

"**Intellectual Property**" means any invention, patent or application for a patent, design (registered or unregistered), trademark (registered or unregistered), name, copyright (including future copyright), circuit layout, trade secret, know-how, proprietary information or other right in respect of any Data, information, process, work, material or method.

"**Law**" means any of the following which is in force from time to time:

- (a) any treaty, statute, directive, ordinance, by-law, rule, order, decree, regulation, warrant, or delegated legislation, in each case, of any nation, state, jurisdiction, intergovernmental or supranational organisation, or of any political subdivision of the foregoing, including any binding requirement, instruction, direction, order, Authorisation, warrant, franchise or scheme of a Governmental Authority or other body of competent jurisdiction; and
- (b) any notices, guidance notes, circulars and codes of practice issued, made or published under or in connection with any of the foregoing.

"**Matrix**" means Matrix Composites & Engineering Ltd (ACN: 009 435 250) and its successors and assigns.

"**Matrix Group**" means Matrix, its and their respective Affiliates and the foregoing's respective agents, representatives, directors, officers and employees (including agency personnel), or, where the context so permits, any or each of the foregoing, but does not include any member of the Client Group.

"**New Intellectual Property**" means any Intellectual Property that arises out of, or is created in the course of, the performance of the Contract.

"**Party**" means either Matrix or the Client, and "**Parties**" means Matrix and the Client.

"**Personal Information**" means information or an opinion about an identified individual or an individual who is reasonably identifiable.

"**Personal Injury**" includes personal injury, death or disease.

"**Pollution**" means any liquid or non-liquid pollutant or waste substance of whatsoever nature, including well production and crude oil.

"**Quotation**" means the quotation issued by Matrix.

"**Rental Items**" means each and every article or thing described in the Contract as to be rented to the Client, or any part thereof.

"**Restricted Person**" means any person or entity that is identified on any applicable restricted party list issued by a Governmental Authority, and also includes, without limitation any person:

- (a) that is, or is directly or indirectly owned or controlled by a person that is, or has an Affiliate, director, officer, employee, Client, agent, branch or representative which is or is directly or indirectly owned or controlled by a person that is, listed on any list of restricted persons maintained by any national or supra national body or agency with jurisdiction over a Party or its Affiliates, including, but not limited to, U.S.' consolidated screening list, as may be updated, amended or superseded from time to time;
- (b) acting or having express or ostensible authority to act on behalf of any of the persons listed in paragraph (a) above; or
- (c) with which any Party under this Contract or its Affiliates is

prohibited from dealing or otherwise engaging in any transaction pursuant to any Sanctions or any other applicable Law.

**"Sanctions"** sanctions, restrictions or designations imposed under any laws or regulations of Australia, the European Union, the U.S., the United Kingdom, or any other country with jurisdiction over the Contract, a Party under this Contract, its Affiliates.

**"Site"** means 150 Quill Way, Henderson WA 6166.

**"Site Rules"** means all rules, regulations, directives and policies which are intended to be of general application to persons at the Site.

**"Taxes"** means all taxes, levies, charges, contributions and imposts (and any interest or penalties thereon) levied or assessed by any Governmental Authority.

**"Third Party"** means a person who is not a member of Matrix Group, or Client Group.

**"Website"** means the webpage located at [www.matrixengineered.com](http://www.matrixengineered.com).

**"Work"** means all the work (including the provision of all Goods, services, Data, deliverables, Rental Items) that Matrix is required to carry out or make available to the Client in accordance with the provisions of the Contract.

## 2 TERM

Matrix will commence the Work on the date or within the period specified in the Contract and continue to perform the Work for the period specified in or determined in accordance with the Contract.

## 3 MATRIX TO PERFORM THE WORK

Matrix will perform the Work in a safe and workmanlike manner, in accordance with all applicable Laws and otherwise in accordance with the requirements of the Contract.

## 4 REPERFORMANCE

Matrix's sole liability for Work that is defective or otherwise not in compliance with the Contract is:

- (a) for the period ending 12 months after the Work was completed (excluding Goods) reperformance of the Work; and
- (b) in respect of Goods, pursuant to Clause 30.

## 5 MATRIX SITE RULES

- (a) Any person attending the Matrix Site must comply with any Laws and Site rules.
- (b) If Matrix considers that any Client Group personnel is failing to comply with any Laws or the Matrix Site rules or any other requirements of Matrix, Matrix may require the Client to remove such personnel from the Matrix Site.

## 6 CUSTOMS

- (a) Matrix shall be responsible for import duties levied on Matrix in respect of any materials, goods, tools, equipment and supplies imported into the Commonwealth of Australia by Matrix.
- (b) Client shall be responsible for all customs imports and exports clearances in respect of any materials, goods, tools, equipment and supplies exported by the Client from the Commonwealth of Australia or any other country.

## 7 CONFIDENTIALITY AND INFORMATION SECURITY

- (a) Matrix will keep all Work (including any Data and any documentation) which it provides or makes available to the Client in connection with the Contract and any information (including technical information, know-how, Data, inventions, trade secrets, formulae, graphs, designs and other related information) which it receives from or on behalf of the Client, or learns about the Client or any member of the Client Group, in strict confidence and will not disclose the same to any third party without the prior written consent of the Client.

- (b) Notwithstanding paragraph (a) above, Matrix may disclose confidential information to the extent necessary for the proper performance of the Contract, to exercise its rights under the Contract, to obtain advice or insurance in relation to the Contract and to comply with all Laws.

## 8 PRIVACY

- (a) The parties must, in respect of all Personal Information collected, received or supplied under the Contract:
  - (i) comply with Data Privacy Laws;
  - (ii) take all necessary steps to enable each party to comply with Data Privacy Laws and each party's relevant policies, including obtaining any necessary consents and making any notifications regarding Personal Information;
  - (iii) keep the Personal Information confidential and protect it from unauthorized destruction, loss, alteration or disclosure or access;
  - (iv) not disclose or transfer any Personal Information to any third party or allow any third party to access or use the Personal Information during or after the term of this Contract;
  - (v) upon termination or expiry of the Contract, return, destroy or de-identify to the other party's satisfaction all Personal Information (unless otherwise required by Law); and
  - (vi) promptly comply with the other party's reasonable requests to provide the other party or an individual with a copy of the individual's Personal Information in the form requested and correct, block or delete the individual's Personal Information.

- (b) If Data Privacy Laws of Australia, the European Economic Area, Canada or the United States apply to Personal Information, a party must not receive, transfer, handle or process Personal Information outside of or between those jurisdictions without the prior written consent of the other party and each party must comply with any requirements of the Data Privacy Laws and the other party's regarding cross-border transfers of such Personal Information including any requirements specified by the party in respect of any jurisdiction which does not have Data Privacy Laws to the satisfaction of the party.

## 9 EXPORT CONTROLS

- (a) The Client must comply with all applicable Law (including rules and regulations of all Governmental Authorities) concerning export and re-export of goods, other foreign trade controls, including (without limitation) under U.S., Australian, United Kingdom, European Union and other countries' Law restricting sales and transfers to other countries and parties of commodities, software or technical data.
- (b) Notwithstanding any other provision of the Contract to the contrary, the Client agrees that no commodities, software or technical data of U.S. origin or with U.S. origin content will be sold, exported, re-exported or transmitted except in compliance with all relevant U.S. government requirements.
- (c) The Client represents and warrants that neither Client, nor any person or entity that owns, controls or is a director, officer or employee of Client, is a Restricted Person.
- (d) Unless in receipt of an approval, licence or other authorisation from the relevant Governmental Authority, the Client must not:
  - (i) lend, contribute or otherwise make available funds made available to it under, pursuant to or in connection with the Contract to any person that is a Restricted Person;

- (ii) engage in, or be a party to, any transaction or activity with any person or entity that is:
    - (A) subject to and in violation of Sanctions or any applicable Law relating to export controls; or
    - (B) a Restricted Person to the extent that such transaction or activity is in violation of Sanctions or any applicable Law relating to export controls or might provide grounds for the Client, Matrix or any of their Affiliates to be listed on any list of Restricted Persons maintained by any national or supra national body or agency with jurisdiction over a Party or its Affiliates; and
  - (iii) enter into any agreement, transaction or dealing that will result in a violation by any person of Sanctions.
- (e) The Client will provide, upon request by Matrix, written certification that the Client has complied with the provisions of this Clause 9.
  - (f) The Client will save, indemnify, defend and hold harmless Matrix Group from and against any penalty, fine, charge, or other impost (including interest and costs) imposed on the Matrix Group as a result of a breach by the Client of this Clause 9.
  - (g) If the Client or any of its Affiliates breaches any of the obligations in this Clause 9, then Matrix may immediately terminate the Contract for breach, by giving written notice of termination to the Client.
  - (h) In the event of termination in accordance with Clause 9, Matrix shall be entitled to payment for all Work performed under the Contract and any costs incurred as a consequence of the termination, up to the date of termination.
  - (i) Any right of termination under Clause 9 is additional to any other right of termination Matrix may have, either in the Contract or at law.

## 10 INTELLECTUAL PROPERTY

- (a) Nothing in the Contract affects a Party's title to its Background Intellectual Property.
- (b) Matrix grants to the Client a royalty free, irrevocable, non-exclusive, perpetual, sub licensable, transferable, world-wide licence to use (including modify, adapt, copy and distribute (including electronically distribute)) Matrix's Background Intellectual Property, and any Matrix New Intellectual Property, for the purposes of in connection with the use of the Work in any manner, enjoying the full benefit of the Work and any outputs of the Work and otherwise exercising its rights in relation to the Work and the New Intellectual Property.
- (c) All New Intellectual Property will vest in Matrix and the Client hereby assigns to Matrix any interest it may have in such New Intellectual Property.
- (d) The Client grants to Matrix a royalty free, non-exclusive, non-transferable and sub-licensable worldwide licence to use the Client's Background Intellectual Property which is made available to Matrix under the Contract for the sole purpose of performing the Work.
- (e) Matrix will save, indemnify, defend and hold harmless the Client Group from and against all Claims for, or arising out of, any infringement or alleged infringement of:
  - (i) any of the Intellectual Property licensed by Matrix to the Client under this Clause 10 or contained in any information or Data supplied by Matrix to the Client or otherwise used by Matrix in performing the Work; or
  - (ii) any Intellectual Property arising out of or in

connection with the performance or non-performance of the obligations of Matrix under the Contract.

## 11 VARIATIONS TO THE WORK AND MATERIALS

- (a) The Client may issue instructions to Matrix at any time to make any variations to the Work (including any additions or reductions to the scope of Work). Matrix will comply with Client's instruction once additional payment has been agreed pursuant to clause 11(c).
- (b) Where Matrix considers that the Client has made variations to the Work, Matrix may issue a request for variation to the Client. Matrix is not required to action any variation to the Work until payment has been agreed pursuant to clause 11(c).
- (c) In the event of significant delay or price increase or price decrease of D.E.R. Liquid Epoxy Resin, the time of performance and the contract sum will be equitably adjusted as a variation. A change in the price of D.E.R. Liquid Epoxy Resin is considered significant when the price increases or decreases by 5 percent between the date of this contract and the date of delivery.
- (d) Any additional payment payable to Matrix as a result of any variation will be valued at the appropriate rates and prices included in the Contract or, in the absence of any appropriate rates and prices, a fair valuation will be made by mutual agreement between the Parties.

## 12 CLIENT RESPONSIBILITIES

- (a) The Client is responsible for the accuracy and completeness of, and Matrix is entitled to rely upon, the information and documents (including any design contained therein) provided by the Client to Matrix in connection with this Contract (Client Information).
- (b) If errors, omissions, ambiguities, inconsistencies, inadequacies or other defects are found in the Client Information, the Client must correct the Client Information at its own cost and notify Matrix of the correction.
- (c) Where:
  - (i) a correction is required pursuant to clause 12(b); or
  - (ii) the Client issues any instruction or direction which is inconsistent with this Contract,
 and this requires a change to the Goods or Services, such change must be treated as a Variation and, in the absence of agreement, must be valued on a fair and reasonable basis.
- (d) Matrix is entitled to payment for any additional work, if any information provided to Matrix by the Client is inaccurate or incomplete and results in additional work for Matrix.

## 13 RATES AND PRICES

Except as otherwise expressly provided in the Contract, the Client will pay Matrix the prices specified in, or to be derived from the rates specified in, the Contract as the sole consideration for Matrix's performance of its obligations under the Contract. The price which the Client has agreed to pay for the Work is exclusive of GST but includes all other Taxes.

## 14 INVOICING AND PAYMENT

- (a) Unless otherwise stated, Matrix will be entitled to render an invoice at the end of each calendar month in which the Contract is performed.
- (b) Time is of the essence in relation to payment of invoices and the Client will pay Matrix any amount due by no later than 30 days after Matrix's invoice is received (**Payment Due Date**).
- (c) Where the Client has failed to make payment in full by the Payment Due Date, Matrix may (without prejudice to its other rights and remedies):

- (d) suspend performance of any or all of its obligations under the Contract (including delivery of Goods or carrying out Services); and/or
- (e) apply interest at a rate of 2% per month on any overdue amounts (which the parties agree is a reasonable pre-estimate of the loss for Matrix receiving late payment and is not a penalty).
- (f) Unless the Contract has been terminated, Matrix will resume performance of its obligations promptly after payment is received in full.

## 15 GST

- (a) Under the Laws of Australia, GST is payable on certain supplies of goods and/or services.
- (b) In this clause:
  - (i) GST means the same as in the GST Law.
  - (ii) GST Law means the same as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
  - (iii) Words defined in the GST Law have the same meaning in this clause unless specifically defined in this clause.
- (c) All charges and amounts payable by one Party to another under the Contract are stated exclusive of GST.
- (d) For each taxable supply under or in connection with the Contract:
  - (i) The supplier will be entitled to charge the recipient for any GST payable by the supplier in respect of the taxable supply.
  - (ii) The recipient must pay to the supplier the amount of the GST at the same time as the relevant charge applicable to the supply becomes payable under the Contract.
  - (iii) The supplier must provide a valid tax invoice (or a valid adjustment note) to the recipient in respect of the taxable supply, and will include in the tax invoice (or adjustment note) the particulars required by the GST Law. The recipient is not obliged to pay the GST unless and until the recipient has received a tax invoice (or an adjustment note) for that supply.
  - (iv) If the actual GST liability of the supplier differs from the GST paid by the recipient, the supplier will promptly create an appropriate valid adjustment note, and the recipient will pay to the supplier any amount underpaid, and the supplier will refund to the recipient any amount overpaid.
  - (v) If any Party is entitled to payment of any costs or expenses by way of reimbursement or indemnity, the payment must exclude any part of that cost or expense which is attributable to GST for which that Party or the Representative Member of any GST Group of which that Party is a Member is entitled to an Input Tax Credit.
- (e) Each Invoice issued under the Contract will be in the form of a tax invoice. Each Invoice issued under the Contract must show the GST payable on supplies covered by that Invoice.

## 16 INDEMNITIES

- (a) **Matrix's indemnity in respect of Personal Injury:** Matrix will release, indemnify, defend and save the Client Group harmless from and against any and all Claims in respect of Personal Injury to any member of Matrix Group arising out of or in connection with the Contract from any cause whatsoever, including the negligence of the Client Group, to the fullest extent permitted by Law.
- (b) **Client's indemnity in respect of Personal Injury:** The Client will release, indemnify, defend and save Matrix Group harmless from and against any and all Claims in respect of Personal Injury to any member of the Client Group arising

out of or in connection with the Contract from any cause whatsoever, including the negligence of the Matrix Group, to the fullest extent permitted by Law.

- (c) **Matrix Group property (excluding Rental Items):** Matrix will release, indemnify, defend and save the Client Group harmless from and against any and all Claims in respect of damage to Matrix Group property (excluding the Rental Items) whether owned, supplied, leased, hired, chartered or borrowed arising out of or in connection with the Contract from any cause whatsoever, including the negligence of the Client Group, to the fullest extent permitted by Law.
- (d) **Client Group property:** The Client will release, indemnify, defend and save the Matrix Group harmless from and against any and all Claims in respect of loss of or damage to Client Group property whether owned, supplied, leased, hired, chartered or borrowed by the Client Group, arising out of or in connection with the Contract from any cause whatsoever, including the negligence of the Matrix Group, to the fullest extent permitted by Law.
- (e) **Indemnity in respect of Pollution:** Subject to clauses 16(a) to (e) (inclusive): Client will release, indemnify, defend and save Matrix Group harmless from and against any and all Claims for Pollution occurring on the premises of the Client Group or originating from property of the Client Group arising from, relating to or in connection with the performance or non-performance of the Contract.

Exclusion for wilful misconduct, fraud, fines, penalties and criminal prosecution.

- (f) The indemnities in Clauses 16(a), 16(b), 16(c), 16(d) and 16(f) will not extend to:
  - (i) any fine or penalty or criminal prosecution; or
  - (ii) fraud or wilful misconduct by any indemnified Party or member of their Group.

## 17 INSURANCE

- (a) The Client must take out and maintain all insurances required by Laws and in addition the following insurances:
  - (i) insurance covering any Rental Items ; and
  - (ii) any additional insurance required by any applicable Law.
- (b) The insurances required under this Contract are primary to, and without right of contribution from, any insurance or self-insurance Matrix may have.
- (c) The Client will at the request of Matrix provide for inspection copies of all insurance policies and certificates of currency in respect of the insurances required to be taken out by the Client.
- (d) The Client acknowledges and agrees that the insurances maintained under the Contract will be primary to the indemnities contained in this Contract. Matrix will not be required to enforce the indemnities in this Contract as a pre-condition to claiming the same loss under the insurances.

## 18 TERMINATION FOR CONVENIENCE

- (a) The Client may on 28 days written notice given to Matrix terminate the Contract for the Client's convenience.
- (b) In the event of termination under this Clause 18, Matrix will be entitled to payment as set out in the Contract for all Work performed up to the date of termination, together with any other payments and fees as may be set out in the Contract or, in the absence of any such provision, all direct costs which are incurred by Matrix as a direct result of termination and which are not allowed for in the payment for the Work.

## 19 TERMINATION FOR DEFAULT

- (a) If a party defaults in or breaches any of its obligations pursuant to the Contract or an Insolvency Event occurs (**Defaulting Party**), the other party may by written notice terminate the Contract or all or any part of the Work.

- (b) Where the Client is the Defaulting Party, Matrix is entitled to payment for all Work performed up to the date of termination and all direct costs which are reasonably and unavoidably incurred by Matrix as a direct result of such termination.
- (c) Where Matrix is the Defaulting Party, Matrix is entitled to payment for all Work performed in accordance with the Contract up to the date of termination.
- (d) Any termination under this Clause 19 or any other provision of the Contract will be without prejudice to any accrued rights of either Party.

## 20 EXCLUSION OF CONSEQUENTIAL LOSS

Matrix is not liable to the Client and the Client hereby waives and releases Matrix from any claim for, Consequential Loss arising from, relating to or in connection with the performance or non-performance of the Contract. This waiver will not apply to benefit Matrix where there has been wilful misconduct or fraud by Matrix.

## 21 LIMITATION OF LIABILITY

Matrix's aggregate liability to the Client under this Contract is limited to the total amount paid by the Client to Matrix for Goods, Services and Rental Items under this Contract. This limitation does not apply to liability resulting from:

- (a) Matrix's gross Negligence or wilful misconduct;
- (b) personal injury or death.

## 22 GOVERNING LAW AND JURISDICTION

- (a) The Contract and all questions arising in connection with it are governed by and will be construed in accordance with the laws in force in the State of Western Australia. The Parties agree that any conflict of laws rule that may otherwise refer the interpretation of this Contract to the laws of another jurisdiction, will not apply to this Contract.
- (b) If any dispute arises under the Contract which cannot be resolved amicably, either Party may commence legal proceedings in the Courts of Western Australia in relation to that dispute.

## 23 NOTICES

- (a) Except as otherwise stated in the Contract, any notice in respect of the Contract must be given in writing and delivered by hand, or sent by email, fax or post to the relevant address specified in the Contract and copied to such other office or offices of the Parties as are from time to time be nominated by them in writing to the other.
- (b) Any such notice will be effective:
  - (i) if delivered by hand, at the time of delivery;
  - (ii) if sent by email or fax, at the time of transmission unless transmitted after the close of normal business hours or on a non-Business Day, in which case it is effective on the next Business Day following the date of sending; or
  - (iii) if sent by post, on the third Business Day after the date of posting.

## 24 GENERAL

- (a) A party may not assign the Contract or any part of it without the other party's prior written consent.
- (b) The Contract constitutes the entire agreement between the Parties relating to the subject-matter hereof and supersedes all previous negotiations and communications.
- (c) The Contract may only be amended by written

agreement between Matrix and Client.

- (d) Each Party agrees, at its own expense, to do everything reasonably necessary to give full effect to this Contract and the transactions contemplated by it, including the execution of documents.
- (e) The Parties agree that Part 1F of the Civil Liability Act 2002 (WA) is excluded from operation with respect to any dispute, claim, action, or any matter whatsoever arising out of or in connection with the Contract.
- (f) If any provision in the Contract is void, voidable, or unenforceable that provision will be severed, and the rest of the Contract will remain in full force and effect.



## PART B: GOODS CONDITIONS

### 25 APPLICATION OF THIS PART

To the extent that the Contract is for the supply of Goods, whether in conjunction with the performance of other Work or otherwise, the conditions of this Part B apply in addition to all other terms and conditions of the Contract.

### 26 QUALITY AND STANDARD OF THE GOODS

Matrix must ensure that the Goods comply with the specifications as set out in the Contract.

### 27 PACKING AND DOCUMENTATION

Matrix will pack, secure, label and supply Goods as set out in the Contract or the relevant INCOTERM.

### 28 DELIVERY OF THE GOODS

- (a) Matrix will deliver the Goods or make the Goods available to the Client at the Delivery Point by the Delivery Date.
- (b) If Matrix is unable to deliver the Goods on the Delivery Date Matrix will notify the Client at the earliest possible opportunity. Matrix and Client will endeavour to agree a mutually acceptable revised Delivery Date.

### 29 RISK AND TITLE

- (a) Title to and property in the Goods passes to the Client upon full payment for the Goods.
- (b) The risk of loss of or damage to the Goods remains with Matrix until Delivery to the Client in accordance with the Contract.

### 30 DEFECTS

Matrix will, at its sole discretion repair, replace or rectify any Goods (or any replacement Goods) which are defective or otherwise not in compliance with the requirements of the Contract during the period commencing on Delivery and ending 12 months later. Matrix will not be responsible for the costs of remedying any defect to the extent that such defect was caused by the Client's failure to use the Goods in accordance with specific operating conditions set out in the Contract.

### 31 HAZARDOUS MATERIALS

Matrix will ensure that the Goods comply with Law and to the extent that they contain toxic, corrosive or hazardous materials, Matrix will ensure that a notice to that effect accompanies each consignment, together with appropriate care and handling instructions.

## PART B1: HUMIDUR AND OTHER ACOTEC NV PRODUCTS (ACOTEC PRODUCTS) CONDITIONS

### 32 APPLICATION OF THIS PART

To the extent that the Contract is for the supply of Humidur and other Acotec NV Products, whether in conjunction with the performance of other Work or otherwise, the conditions of this Part B1 apply in addition to all other terms and conditions of the Contract.

### 33 QUALITY AND STANDARD OF THE GOODS

- (a) Matrix is a distributor of the Acotec Products in Australia. Matrix does not manufacture the Acotec Products and consequently only warrants that Acotec Products are sold with good title.
- (b) To the extent permitted by law, Matrix excludes any warranty of any kind, express or implied, with respect to the Acotec Products sold hereunder as to merchantability, fitness for a particular purpose or any other matter with respect to the Acotec Products whether used alone or in combination with other products, unless a written specific agreement has been reached.
- (c) Any warranty for the Acotec Products is provided by Acotec NV to the Client.



## PART C: RENTAL CONDITIONS

### 34 APPLICATION OF THIS PART

To the extent that the Contract is for the supply of Rental Items, whether in conjunction with the supply of Goods or Services or otherwise, the conditions of this Part C apply in addition to any other terms and conditions of the Contract.

### 35 ADDITIONAL DEFINITIONS

**Defect** means a fault or issue with the operation of a Rental Item but does not include damage or destruction howsoever caused.

### 36 BASIC ARRANGEMENT

Matrix will rent the Rental Items to the Client, and the Client will pay rent to Matrix for the Rental Items, in accordance with the terms of the Contract.

### 37 THE RENTAL ITEMS

- (a) The Client is responsible for the delivery and all costs associated with the delivery of the Rental Items to the Client's premises.
- (b) The Client is responsible for the installation of the Rental Items.
- (c) Matrix will furnish all operating manuals and instructions for the Rental Items in accordance with and within the time stated in the Contract.
- (d) The Client must operate the Rental Items in accordance with all operating manuals and instructions for the Rental Items.

### 38 RETENTION OF OWNERSHIP

Matrix retains full title to the Rental Items, notwithstanding that the Rental Items may be:

- (a) rented to and in the possession of the Client; or
- (b) attached to any land or buildings.

### 39 DEFECTS IN RENTAL ITEMS

- (a) During the term of the rental, the Client will notify Matrix of any Defect in the Rental Items as soon as practicable after becoming aware of such Defect.
- (b) Matrix will remedy the Defect in the Rental Items as soon as practicable after becoming aware of the Defect.

### 40 RENT

- (a) The Client will pay rent for the Rental Items to Matrix monthly in advance in accordance with the Contract.
- (b) The rent is a fixed sum and is not subject to any rise and fall.
- (c) If the parties have agreed to a minimum rental period, the Client must pay the rent for the entire minimum rental period even if the Rental Items are returned before the end of the period.

### 41 DURATION OF RENTAL

The rental will continue for the period specified in the Contract. If the Client continues to retain possession of the Rental Items, with Matrix's consent, beyond the period specified in the Contract, the Client shall be deemed to rent the Rental Items on a week to week basis on the same terms as the Contract, including any changes necessary to make the terms appropriate for a monthly tenancy.

### 42 NO ENCUMBRANCES

The Client must procure that:

- (a) no Rental Items are sold or otherwise disposed of;
- (b) possession of any Rental Items is not shared with or provided to, and no sub-rental, licence or sub-licence affecting any Rental Items is granted to, any person other than an Affiliate of the Client; and
- (c) no encumbrance is created over any Rental Items, without the consent of Matrix.

### 43 MAINTENANCE AND REPAIR

Responsibility for servicing and maintenance of Rental Items set out in the Rental Contract. For the avoidance of doubt, unless provided otherwise the Client is responsible for all pre-start checks and maintenance of Rental Items while in the care, custody or control of the Client.

### 44 DAMAGE

- (a) The Client must protect the Rental Items against loss or damage and will be responsible for accidental loss or damage to the Rental Items.
- (b) The Client will indemnify Matrix and the Matrix Group against any Claims for such loss or damage including for:
  - (i) Repair costs and rent; or
  - (ii) Total replacement cost (which would include lost revenue).

### 45 INSURANCE

Unless otherwise specified in the Contract, the Client is responsible for insuring the Rental Items for their full replacement value against accidental loss or damage.

### 46 TERMINATION

At the end of the term of the rental or upon the termination of the Contract for any reason:

- (a) the Rental Items will be returned to Matrix subject to fair wear and tear given the conditions under which the Rental Items were employed;
- (b) all costs associated with the return and delivery of the Rental Items from Matrix to the Client will be borne by the Client; and
- (c) Matrix may recover from the Client all rent due

## **PART D: TRAINING**

### **1 APPLICATION OF THIS PART**

To the extent that the Contract is for the provision of Humidur Applicator Training, whether in conjunction with the supply of Goods or Services or otherwise, the conditions of this Part D apply in addition to any other terms and conditions of the Contract.

### **2 BASIC ARRANGEMENT**

Matrix agrees to provide Humidur Applicator Training as required by Acotec NV for any Acotec Product warranty. Matrix makes no statement as to the competency of attendees at the Humidur Applicator Training other than confirmation of attendance and completion of the training. Unless agreed otherwise, all training will be group training and Matrix will determine the number of attendees at each training session.

### **3 PAYMENT**

Unless agreed otherwise, payment for training must be received by Matrix no less than 2 business days before the scheduled training.

All payments are non-refundable.

### **4 CANCELLATION AND RESCHEDULING**

The Client may reschedule training on two working days' notice to Matrix. The Client may change attendees at training on one working days' notice to Matrix.

### **5 NON-ACCREDITED TRAINING**

Matrix is not a Registered Training Organization or a registered group training organization and does not provide any accredited training.

