

Sitesec – Terms and Conditions of Services

Terms and Conditions of Services

Unless Sitesec and the Customer otherwise agree in writing, these terms and conditions (**Terms**), material information and further conditions contained in the Schedule to which these Terms are attached form part of any contract between Sitesec and the Customer for the supply of Services as Specified in the Schedule.

The Terms contained herein, together with the Schedule, comprise the agreement between Sitesec and the Customer (**the Agreement**). Each acknowledges that no other conditions, representations, or warranties apply.

1. Definitions

In these Terms, unless the contrary intention appears:

- (a) **Agreement** means the Terms contained herein together with the Schedule, and the Hire Contract between Sitesec and the Customer.
- (b) **Associated Fees** means any other fees charged by Sitesec to the Customer such as installation fees, removal fees and relocation fees as specified in the Schedule and/or Hire Contract, or any other fees as otherwise agreed in writing between the Parties.
- (c) **Australian Consumer Law** means the *Australian Consumer Law* contained in Schedule 2 to the *Competition and Consumer Act 2010* (Cth);
- (d) **Camera Set Up Period** means the period of 72 hours following the Installation Date.
- (e) **Commencement Date** means the date of this Agreement or the date of the Customer's acceptance in accordance with Clause 4(b).
- (f) **Customer** means the party or parties entering into an agreement with Sitesec, including any Guarantor as specified in the Schedule.
- (g) **Defect** means any defect, fault or damage to the Equipment leased under this Agreement in which Sitesec is responsible.
- (h) **Equipment** means any equipment provided to the Customer by Sitesec for hire including but not limited to all camera systems, poles, monitoring equipment solar panels, temporary bases and signage.
- (i) **GST** means any Services or service tax.
- (j) **Guarantor(s)** means an individual as specified in the Schedule, that agrees or promises to pay money due and payable by the Customer under the Agreement and the Terms, in the event the Customer fails to meet their obligations.
- (k) **Hire Contract** means the proposal or quote document provided to the Customer by Sitesec.
- (l) **Hire Fees** means the costs and charges of the Services as specified in the Schedule.
- (m) **Hire Period** means the period of time nominated under the Agreement or the period from the Commencement Date until such time as the Equipment is returned to Sitesec.
- (n) **Installation Date** means that day of installation of the Equipment on Site.
- (o) **Overdue Interest Rate** means the amount of 10% per month calculated on a daily basis.
- (p) **Parties** means the parties to this Agreement, Sitesec and the Customer.
- (q) **Security of Payment Legislation** means the Building Industry Fairness (Security of Payment) Act 2017 (Qld) and the Building Industry Fairness (Security of Payment) Regulation 2018 (Qld).
- (r) **Security Bond** means any amount required to be paid as a security bond under this Agreement as stated in the Schedule.
- (s) **Services** means the Services supplied by Sitesec to the Customer as Specified in the Schedule.
- (t) **Site** means the location described in the Schedule and/or in the Hire Contract where the Equipment shall be installed by Sitesec.
- (u) **Sitesec** means Sitesec Pty Ltd and or any Trading Names associated with Sitesec ACN 611 552 053 and any and all Associated Entities as such terms are defined in the *Corporations Act 2001* (Cth).
- (v) **Terms** means the Terms and Conditions set out in this document.
- (w) **Variation** has the meaning given under Clause 9 of this Agreement.

2. Interpretation

- (a) Nothing in this document excludes, restricts or modifies or has the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Australian Consumer Law and which by law cannot be excluded, restricted or modified).

3. Quote

- (a) A quotation provided by Sitesec is an invitation to the Customer to engage Sitesec, not to be construed as an obligation to sell or hire, and Sitesec reserves the right to withdraw the quotation at any time. Quotes lapse 14 days

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after issue and may be withdrawn or changed by Sitesec at any time.

4. Offers to supply Services

- (a) Any offer by Sitesec to supply Services to the Customer is subject to these Terms.
- (b) The Customer expressly accepts Sitesec's offer to supply the Services on these Terms and is immediately bound, jointly and severally, by the Terms when the Customer:
 - (i) signs and returns this Agreement (including the Schedule and/or Hire Contract) to Sitesec; or
 - (ii) pays a Security Bond in accordance with Clause 14; or
 - (iii) after receiving login details, the Customer accesses and uses the Sitesec web or mobile application; or
 - (iv) after receiving this Agreement and/or these Terms and/or the Hire Contract, continues to instruct Sitesec to provide the Services; or
 - (v) performs any obligations under this Agreement, after having received the Agreement and/or Hire Contract, including by making payment of any Hire Fees and Associated Fees to Sitesec,(whichever occurs first).

For the avoidance of any doubt, acceptance is deemed to have occurred if any one or more of the actions provided for in clause 4(b) occurs, notwithstanding any defect in the authority of the person who placed the order for the Services.

- (c) The Customer acknowledges that it has read and understood these Terms and understands that by doing any one or more of the actions set out in clause 4(b), it accepts that it is immediately bound by these Terms contained herein including the liability to pay all amounts due and payable under the Agreement.

5. Term and Termination

- (a) This Agreement will commence on the date of acceptance in accordance with clause 4(b) and will continue until the Services are completed, unless terminated earlier in accordance with this clause.
- (b) Either party may terminate this Agreement after providing 7 days written notice to the other party subject to Clause 5(c).
- (c) The Customer agrees and acknowledges that its monthly invoice period begins on the Installation Date at Site and an invoice will be issued to the Customer on the same day monthly thereafter ('Invoice Day'). In the event of termination, the Customer agrees and acknowledges that if the Customer did not provide notice of termination before the Invoice Day, the Customer must make payment of their monthly invoice amount in full for that current month,

despite Equipment having already been removed from Site and/or any Services cancelled.

- (d) The Customer agrees and acknowledges that in the event that additional Equipment is installed on the date that differs from the Installation Date ('Supplementary Installation Date'), Sitesec will issue a pro-rata invoice for the partial period between the Supplementary Installation Date and the next Invoice Day. Thereafter, all Equipment will be invoiced together on the same Invoice Day each month.

6. Performance of Services

- (a) Sitesec will supply the Services in consideration of the Customer paying the Hire Fees and Associated Fees and abiding by its obligations under this Agreement.
- (b) If the Customer requests further services, those services will be deemed to be subject to these Terms and Sitesec may at its discretion issue the Customer with a new schedule and/or Hire Contract.

7. Hire Fees, Associated Fees and Hire Period

- (a) The Customer agrees to pay the Hire Fees and Associated Fees to Sitesec for the duration of the Hire Period commencing on the Installation Date for the installation and hire of the Equipment at the Site.
- (b) The Customer agrees and acknowledges that the Hire Period is a minimum of 3 months. In the event the Customer requires that Sitesec remove the Equipment from the Site and terminates the Agreement before the expiry of 3 months from the Commencement Date, there will be a removal fee charged, equivalent to the Installation Fee as specified in the Schedule and/or Hire Contract.
- (c) The Customer agrees and acknowledges that it is required to make payment of an installation fee as specified in the Schedule and/or Hire Contract, for the installation of the Equipment at the Site.
- (d) The Customer agrees and acknowledges that it will be charged the relocation fee equivalent to the installation fee as specified in the Schedule and/or Hire Contract if Sitesec is required to attend Site to remove and relocate the Equipment. The Customer agrees and acknowledges that it will still be charged the relocation fee in the event Sitesec attend the Site and are unable to determine a safe or suitable location to relocate the Equipment.
- (e) In the event that the Customer's hire of the Equipment continues beyond any agreed Hire Period or is nominated as a month-to-month hire arrangement under the Schedule and/or Hire Contract, then:
 - (i) This Agreement shall continue on a monthly basis and the Customer shall continue to pay the Hire Fees and Associated Fees for each month in advance and for so long as the Equipment is not made available for collection by Sitesec.

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- (f) If required in writing under this Agreement (via the Schedule or Hire Contract), the Customer agrees to pay the Security Bond to Sitesec on or prior to the Commencement Date. Such Security Bond shall be held by Sitesec as security for any Hire Fees and Associated Fees payable under this Agreement. The Customer consents and authorises Sitesec to deduct from the Security Bond any amounts due and payable to Sitesec which are not paid when due under the terms of this Agreement.
- (g) Unless otherwise agreed in writing, any amount payable to Sitesec by the Customer under this Agreement that is not paid on or prior to the Commencement Date is to be paid within 14 days of the date of any tax invoice rendered by Sitesec and issued to the Customer.
- (h) As stated in Clause 5(c), the Customer agrees and acknowledges that its monthly invoice period begins on the Installation Date at Site and an invoice will be issued to the Customer on the same day monthly thereafter ('Invoice Day'). The Customer agrees and acknowledges that should it wish to off-hire Sitesec's Equipment and/or cancel Sitesec's Services and/or terminate this Agreement, the Customer must request same before the Invoice Day, otherwise payment of their monthly invoice amount will be required in full for that current month, despite Equipment having already been removed from Site and/or any Services cancelled.
- (i) The Customer acknowledges and agrees that if it disputes an invoice issued by Sitesec, notice of such dispute must be given to Sitesec in writing within 7 days of the date of the invoice. The Customer acknowledges and agrees that it is deemed to have accepted the invoice if no dispute is received by Sitesec within 7 days of the date of the invoice, or payment of such invoice has been paid by the Customer in full.
- (j) The Customer acknowledges and agrees that:
- (i) It is a fundamental condition of the Agreement that payments be made to Sitesec in accordance with this Agreement; and
 - (ii) The Customer shall not have any right to claim any set-off or deduct any amount due to Sitesec under this Agreement and must make full payments of all amounts due to Sitesec during the Hire Period under the Agreement.
 - (iii) The Customer shall not be entitled to deduct any amount due to Sitesec as a result of any flat battery affecting the Equipment due to adverse weather conditions.
 - (iv) The Customer shall not be entitled to deduct any amount due to Sitesec as a result of intermittent off-line periods, or lack of service or internet/service obstructions.
 - (v) The installation of the Equipment requires Sitesec to adjust the sensitivity of the Equipment to suit the Site and the Site's associated external factors which are outside of Sitesec's control.
- Accordingly, the Customer acknowledges and agrees that there may be security events which are missed during the Camera Set Up Period.
- (k) The Customer must pay Sitesec the Hire Fees and Associated Fees (including the GST) and any other amount payable under this Agreement.
- (l) Receipt by Sitesec of any form of payment other than cash will not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- (m) Sitesec shall be entitled to charge interest at the Overdue Interest Rate on any overdue amounts which are not paid in accordance with this Agreement, such amount shall accrue daily from the date when the payment was due until the date the payment is made.
- (n) The Customer further agrees to pay:
- (i) Any duties, taxes or levies payable in respect of the Agreement or that arises from the use of the Equipment;
 - (ii) All delivery charges and costs charged by Sitesec for:
 - (A) The delivery of the Equipment; and
 - (B) The recovery of possession of the Equipment
 - (iii) All costs and expenses incurred by Sitesec in taking any action (including legal fees on a full indemnity basis) to enforce any rights under this Agreement, to recover the Equipment and/or to enforce the terms of this Agreement after any breach of the Agreement by the Customer.
- (o) The Hire Fees and Associated Fees for the supply of Services will be specified in the Schedule and/or Hire Contract, and may also be specified in the Hire Contract, a sales quote, sales order, invoice or account statement issued by Sitesec to the Customer.
- (p) Unless otherwise stated, the Hire Fees and Associated Fees for the Services agreed in the Sales Agreement and any other amount payable under the Sales Agreement or these Terms is exclusive of any GST payable.
- (q) Unless specifically agreed by Sitesec in writing before dispatch of the Services, no deduction is to be made from payment for retention monies to guarantee the performance of a contract.
- (r) Sitesec reserves the right to change the Hire Fees and Associated Fees:
- (i) If the Customer requests a variation to the Services; or
 - (ii) If the Hire Fees and/or the Associated Fees increases as a result of the introduction of any legislation, regulation or government policy; or

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- (iii) On the yearly anniversary of this Agreement.

that may arise as a result of the Equipment being at the Site;

8. Access

- (a) The Customer:
- (i) Must provide Siteseq with unrestricted access to the Site during normal business hours or such other hours as may be agreed between Siteseq and the Customer for the purpose of installing the Equipment; and
- (ii) Irrevocably authorises and consents to Siteseq accessing the Site, by whatever means necessary, for the purpose of inspecting, recovering or taking possession of any Equipment, including by way of cutting of any locks or security devices.

- (iii) Make a request to Siteseq in writing to relocate the Equipment and/or amend the angle/position of the Equipment. The Customer agrees that it will not attempt to relocate or amend the angle/position of the Equipment.

- (iv) Provide Siteseq with a copy of all relevant insurance certificates on request at any time.

- (c) The Customer agrees that it shall not:

- (i) Tamper, damage or attempt to repair the Equipment;

- (ii) Remove or relocate the Equipment from its original position as installed by Siteseq;

- (iii) Change/Alter the angle of the Equipment from the original position placed and fitted by Siteseq; and/or

- (iv) Lose or part with possession of the Equipment.

9. Variation

- (a) Siteseq may at any time during the Hire Period provide the Customer with a document setting out a variation of the Terms of this Agreement. The Customer shall be deemed to have accepted the varied terms and conditions of this Agreement should it undertake any of the steps stipulated under clause 4(b) of this Agreement.

- (d) The Customer indemnifies Siteseq against any losses arising from:

- (i) Any breach of this Agreement including any failure to comply with this Clause 10; and/or

- (ii) Injury, loss and/or damage caused to any persons or property arising from the installation or use of the Equipment.

10. Customer's Obligations

- (a) Unless otherwise agreed to by Siteseq in writing, the Customer is responsible for and must make its own enquiries and ensure that:

- (i) All licences, approvals, consents, authorisations and permits for the installation of the Equipment have been obtained by the Customer;

- (ii) Any permission of any Body Corporate, statutory authority and/or local government body has been received prior to the Agreement being entered into between the Parties;

- (iii) Any required fees, duties and taxes related to the Agreement have been paid to any relevant authority by the Customer;

- (iv) The Customer has complied and will continue to comply with all requirements of any relevant authority; and

- (v) Siteseq is lawfully entitled to install the Equipment and perform its obligations under this Agreement.

- (b) The Customer agrees to:

- (i) Insure the Equipment to its full replacement value against any theft, loss or damage whilst at the Site;

- (ii) Maintain an appropriate public liability policy to insure against any injury, damage or liabilities

11. Siteseq's Obligations

- (a) Subject to the Customer performing its obligations under this Agreement, Siteseq agrees to:

- (i) Allow the Customer to hire the Equipment for the duration of the Hire Period;

- (ii) Provide the Equipment to the Customer in working order;

- (iii) Repair or re-supply the Equipment if it fails to operate in working order in a timely manner acting reasonably; and

- (iv) Collect the Equipment within 7 business days of the conclusion of the Hire Period.

12. Limitation of Liability

- (a) To the extent permitted by law, including the Australian Consumer Law, Siteseq's liability under this Agreement is limited, at Siteseq's election, to:

- (i) The repair or replacement of any Equipment supplied in the performance of this Agreement; or

- (ii) Refund any amounts paid by the Customer for the hire of the Equipment under this Agreement.

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- (b) Sitesecc is not and shall not be liable for:
- (i) Any loss or damage of any kind suffered by the Customer caused by or resulting from any act, use or omission of the Customer or any of its employees, contractor's and/or agents.
 - (ii) Any loss of profits or anticipated loss of profits, economic loss, loss of business opportunity, loss or damage resulting from lost time, or any special, incidental, or otherwise consequential loss or damage suffered by the Customer, regardless of whether Sitesecc was notified of the potential for such loss, or the loss arises from the negligence of, breach by, or is caused by Sitesecc or its employees, agents or contractors.
 - (iii) Any loss or damage of any kind suffered by the Customer caused by or resulting from the Customer removing or relocating the Equipment from its original position as installed by Sitesecc or caused by or resulting from the Customer changing/altering the angle of the Equipment from the original position placed and fitted by Sitesecc.
- (c) Subject to the terms of this Agreement and the Australian Consumer Law, all representations, warranties, conditions, undertakings and guarantees not expressly contained in this Agreement, are excluded and Sitesecc shall not be obligated to carry out such terms.
- (d) Nothing in this Agreement excludes, restricts or modifies any warranty, right or remedy conferred on the Customer by the Australian Consumer Law or any other applicable law that cannot be excluded, restricted or modified by the Agreement.

13. Guarantee and Indemnity

- (a) If there are guarantors named in the Schedule and/or Hire Contract, then this clause 13 applies.
- (b) The Guarantor gives this guarantee and indemnity in consideration of Sitesecc agreeing to enter into the Sales Agreement to supply Services to the Customer.
- (c) The Guarantor unconditionally and irrevocably guarantees to Sitesecc the due and punctual performance and observance by the Customer of the Customer's obligations:
- (i) under this Agreement; and
 - (ii) in connection with any other agreement entered into between Sitesecc and the Customer as a result of provisions of these Terms, including the obligations to pay money.
- (d) As a separate undertaking, the Guarantor unconditionally and irrevocably indemnifies Sitesecc against all liability or loss arising from and any costs, charges, or expenses incurred in connection with, a breach by the Customer of this Agreement, including a breach of the obligations to pay

money. It is not necessary for Sitesecc to incur expense or make the payment before enforcing this right of indemnity.

- (e) This guarantee and indemnity is a continuing security and is not discharged by any one payment.
- (f) The liabilities of the Guarantor under this guarantee and indemnity as a guarantor, indemnifier or Customer, and the rights of Sitesecc under this guarantee and indemnity, are not affected by anything which might otherwise affect them at law or in equity including, but not limited to one or more of the following:
 - (i) Sitesecc granting time or other indulgence to, compounding or compromising with or releasing the Customer;
 - (ii) Acquiescence, delay, acts, omissions or mistakes on the part of Sitesecc;
 - (iii) Any variation, assignment, extension or renewal of this Document;
 - (iv) The invalidity or unenforceability of an obligation or liability of a person other than the Guarantor.
- (g) If a claim that payment to Sitesecc in connection with the Agreement or this guarantee and indemnity is void or voidable (including, but not limited to, a claim under laws relating to liquidation, administration, insolvency or protection of creditors) is upheld, concealed or compromised then, Sitesecc is entitled immediately as against the Guarantor, the rights to which it would have been entitled under this guarantee and indemnity if the payment had not occurred.
- (h) The Guarantor agrees to pay or reimburse the Sitesecc on demand for Sitesecc's costs, charges and expenses in making, enforcing and doing anything in connection with this guarantee and indemnity, including, but not limited to legal costs and expenses on a full indemnity basis.
 - (i) The Guarantors obligations are principal obligations and are not ancillary or collateral to any other right or obligation.
 - (j) Sitesecc is not required to proceed against the Customer, exhaust any remedy it may have against the Customer or enforce any security it may hold with respect to the Customer's obligations.

14. Security Bond

- (a) The Customer must pay the Security Bond as specified in the Schedule and/or Hire Contract on acceptance if applicable under this Agreement.
- (b) This Security Bond will be credited towards the first month's invoice.

15. Complaints and Payment Deduction Policy

- (a) The Customer is entitled to raise a complaint regarding the Services provided by Sitesecc within seven (7) days of the event occurring.

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- (b) The Customer is entitled to dispute an invoice within seven (7) days of the date of the invoice.
- (c) To be eligible for a payment deduction, the Customer must submit their complaint in writing to Siteseq within the specified timeframe as stated in Clause 15(a) and (b). The complaint must detail the nature of the issue and any relevant supporting documentation.
- (d) If a complaint is not received within the seven (7) day period, Siteseq will not be liable for any refunds or adjustments to the invoice, Hire Fees or the Associated Fees.
- (e) Upon receipt of a valid complaint or dispute within the designated timeframe, Siteseq will review the issue and, at its discretion, offer a resolution which could include a refund, service credit, or other remedy Siteseq deems appropriate.
- (f) Payment deductions, if granted, will be applied and processed within seven (7) days of the resolution of the complaint.
- (g) The Customer agrees and acknowledges that if the Customer raises a dispute or complaint within the timeframe as specified in Clause 15(a) and (b) above, but does not respond to any correspondence or resolution options as recommend by Siteseq within 7 days of the date the dispute or complaint was sent to Siteseq by the Customer, then the Customer agrees and acknowledges that they are deemed to have withdrawn the dispute or complaint.

16. Change in Control or Circumstances

- (a) The Customer agrees and acknowledges that:
 - (i) it must give Siteseq not less than fourteen (14) days prior written notice of:
 - (A) any proposed change of ownership of the Customer including, but not limited to, changes to the Customer's controlling management, directorship or major shareholding; and
 - (B) any other change in the Customer's details including, but not limited to, changes in the Customer's name, address, email address, contact phone or business practice;
 - (ii) must promptly advise Siteseq of any other change in the Customer's circumstances which may affect its ability to comply with its obligations under these Terms, including, but not limited to, its ability to pay for Services on the due date;
 - (iii) the Customer is liable for any loss incurred by Siteseq as a result of the Customer's failure to comply with this clause.

17. Confidentiality

- (a) Both parties agree to keep confidential any information disclosed during the engagement that is not publicly available (Confidential Information).
- (b) Both parties agree that any Confidential Information will not be disclosed to third parties without prior written consent from the disclosing party.

18. Risk and Title

- (a) Siteseq retains all legal and equitable title in the Equipment.
- (b) The Customer accepts all risk in the Equipment from the Commencement Date and for the duration of the Hire Period.

19. Intellectual Property

- (a) Any intellectual property developed by Siteseq in the course of providing the Services remains the property of Siteseq unless otherwise agreed in writing between the parties.

20. Security and Charging Clause

- (a) As continuing security for the payment of any amounts owing to Siteseq, the Customer:
 - (i) Grants in favour of Siteseq, a security interest in all of its present and after acquired personal property;
 - (ii) Grants in favour of Siteseq, a purchase money security interest over any Equipment which is supplied by Siteseq under hire arrangements in accordance with this Agreement;
 - (iii) Grants a fixed charge to Siteseq of the Customer's and/or Guarantor's estate and interest in any real property;
 - (iv) In the event of default of the terms of this Agreement, consents to Siteseq registering any caveat over any real property of the Customer;
 - (v) Acknowledges that Siteseq has received valuable consideration for this charge;
 - (vi) Agrees that any attachment is immediate and to the extent that the security interest relates to after-acquired personal property or future acquired real property, then the security interest shall attach on the date that the Customer has power to transfer rights in the collateral to Siteseq;
 - (vii) Acknowledges that any security interest created by this Agreement extends to any proceeds of the sale of any property charged by way of this Agreement;

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- (viii) Agrees that if requested by Siteseq, the Customer shall execute any document or agreement required to give effect to the charge created by this Agreement;
 - (ix) Shall insure and keep insured all property the subject of this charge; and
 - (x) The security shall be a continuing security for so long as the Customer shall have obligations required to be performed under this Agreement and shall not be affected by any settlement of account, intervening payment or other matter whatsoever until a final discharge of this Agreement is given by Siteseq.
- (b) Siteseq may register its security interest on the Personal Property Securities Register or with any department, agency or authority as necessary to give effect to the terms of this clause. The Customer agrees to do anything that Siteseq requires (such as obtaining consents and signing documents) for the purpose of:
- (i) Ensuring that any security interest created by this charging clause is enforceable, perfected and otherwise effective;
 - (ii) Enabling Siteseq to obtain first priority (or any other priority agreed to with Siteseq in writing) for the purpose of securing its interest; and
 - (iii) Enabling Siteseq to exercise rights in connection with that security interest.
- (c) The Customer shall be liable, on demand from Siteseq, to pay any cost or expense incurred by Siteseq for the purpose of giving effect to this clause, this includes any registration fees or legal fees incurred for the purpose of giving effect to the security and charging provisions under this Agreement.
- (d) Any amounts of money payable to Siteseq and secured by way of this clause, shall at the election of Siteseq, immediately become payable on the happening of any one of the following events:
- (i) If the Customer defaults on the payment of any money as required under this Agreement;
 - (ii) If the Customer becomes insolvent or is otherwise the subject of any action taken to place the Customer into administration, bankruptcy, personal insolvency arrangements, liquidation or receivership;
 - (iii) If the Customer or the Guarantor breaches any term or provision in this Agreement.
- (e) If any of the events stipulated in Clause 20(d) of this Agreement occurs, then Siteseq may at its election, do any or all of the following:
- (i) Siteseq may enter any property, premises or vehicle for the purpose of taking possession and assuming control of any property charged by this clause;
- (ii) Receive payment for any proceeds received by the Customer or the Guarantor by way of the transfer of any property charged by this clause;
 - (iii) Sell, lease, licence or agree to sell, licence or lease any property charged by this clause on such terms as Siteseq thinks fit, including whether by auction, private treaty or tender;
 - (iv) Demand, sue for and recover any property or proceeds charged by this clause; and
 - (v) Appoint a receiver or such other person as Siteseq sees fit for the purpose of enforcing its rights under this clause.
- (f) If Siteseq enforces any rights under this clause, then Siteseq shall apply any proceeds acquired (after payment of any prior encumbrances) as follows:
- (i) In payment of all charges, costs and expenses incurred or incidental to the performance of any powers or remedies provided for in this Agreement;
 - (ii) In payment of any fees charged by any receiver;
 - (iii) In payment of any outstanding debt or obligation owing to Siteseq; and
 - (iv) In payment of any surplus to the Customer as appropriate.
- (g) To the extent that Chapter 4 of the PPS Law applies to any security interest granted under this Agreement, the parties agree that the following provisions of the PPSA will not apply or are waived, as the context requires:
- (i) Section 95 (notice of removal of accession);
 - (ii) Section 96 (retention of accession);
 - (iii) Section 121(4) (notice to grantor);
 - (iv) Section 125 (obligation to dispose or retain collateral);
 - (v) Section 129 (notice of purchase);
 - (vi) Section 130 (notice of disposal);
 - (vii) Section 132 (right to receive statement of account);
 - (viii) Section 135 (notice of retention);
 - (ix) Section 142 (redemption of collateral); and
 - (x) Section 143 (reinstatement of security agreement).
- (h) The Customer and Guarantor waives its rights to receive a copy of any verification statement after the registration of a financing statement in respect of the security interest created by this Agreement.

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21. Exclusions

- (a) To the extent permitted by law and except as set out in these Terms:
- (i) the Customer releases Sitesec (and its officers and employees) from, indemnifies and will keep indemnified and hold harmless Sitesec (and its officers and employees) in respect of all claims arising in connection with the Services, including, but not limited to:
- (A) any claims made after the provision of Services;
- (B) any claims arising in connection with the Customer's (or its employees, agents or contractors) failure to comply with any laws, rules standards, regulations or instructions applicable in relation to the Services or use of the Services; or
- (C) any claims arising in connection with any negligence or breach of duty by the Customer (or its employees, agents or contractors) in relation to the Services or use of the Services.
- (ii) the Customer acknowledges that:
- (A) The Customer has not relied upon any representation made by Sitesec, which has not been expressly stated in the Sales Agreement;
- (B) Sitesec is not liable for any loss of profits or any consequential, indirect or special loss, damage or injury of any kind whatsoever arising directly or indirectly from Services; and
- (C) any claims for other loss or damage of any kind including economic, moral, direct, immediate, special, indirect or consequential loss or damage are expressly excluded.
- (b) Neither party will be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

22. Force Majeure

- (a) For the purposes of this Agreement, a 'Force Majeure Event' means any event or circumstance beyond the reasonable control of the affected party, including but not limited to:
- (i) Acts of God, natural disasters, storms, floods, earthquakes or fires;
- (ii) Epidemics, pandemics, or other public health emergencies;

- (iii) War, terrorism, civil unrest, or acts of sabotage;
- (iv) Strikes, labour disputes, or industrial action;
- (v) Government orders, restrictions, regulations, or actions, including the imposition of quarantine or restrictions on the use of goods or services;
- (vi) Supply chain disruptions, equipment shortages or delays in transportation; or
- (vii) Power outages or telecommunication failures.

- (b) If a party under this Agreement is prevented, hindered or delayed from performing any of its obligations under this Agreement due to a Force Majeure Event:

- (i) That party shall promptly notify the other party in writing of a Force Majeure Event including its nature, expected duration and the obligations affected.
- (ii) The obligations of the affected party, to the extent they are prevented, hindered or delayed by the Force Majeure Event, shall be suspended for the duration of the Force Majeure Event.

- (c) The affected party shall use reasonable efforts to mitigate the effect of the Force Majeure Event and resume performance of its obligations as reasonably practicable and provide regular updates to the other party on its progress in addressing the Force Majeure Event.

- (d) If the Force Majeure Event prevents the affected party from performing its obligations for a continuous period exceeding 90 days or such other period agreed in writing by the parties, either party may terminate this Agreement upon written notice to the other party, without liability. Sitesec may issue an invoice for all Services provided to the Customer up to the date of termination subject to Clause 5.

23. Default and consequences of default

- (a) If the Customer defaults on or breaches any term of this Agreement, then Sitesec shall have the right at its sole and absolute discretion, to do any of the following:
- (i) Terminate this Agreement with immediate effect;
- (ii) Charge interest on any outstanding amount at the Overdue Interest Rate, which shall accrue daily from the date when payment is due until the date that payment is made;
- (iii) Enter upon the Site and take possession of the Equipment;
- (iv) Issue a notice in writing on the Customer to remedy the default within 5 business days of such notice and if is not remedied, Sitesec may enforce any other rights under this clause;
- (v) Take any step or action contemplated in accordance with the terms of this Agreement

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- including steps to recover any unpaid goods or materials from the Customer;
- (vi) Appoint a debt collector and/or solicitor to commence recovery action against the Customer, in which case the Customer must pay to Sitesecc all costs and expenses incurred by the Sitesecc in taking such action (including legal fees on a full indemnity basis) and/or
- (vii) Pursue the Customer or Guarantor for the recovery of any amounts owed by the Customer to Sitesecc.
- (b) If Sitesecc defaults or breaches any substantial term of this Agreement, then the Customer must give a written notice to Sitesecc describing any alleged breach and stating the Customer's intention to terminate the Contract within 14 days after receipt of the notice. If Sitesecc thereafter fails to remedy the breach within the time stated in the notice, then the Customer may terminate the Contract by written notice to Sitesecc.
- (c) Upon termination of this Agreement, the Customer must:
- (i) Make immediate payment of all amounts for:
- (A) Hire Fees and Associated Fees incurred under this Agreement as at the date of termination; and
- (B) Goods or materials ordered, supplied, delivered or otherwise sourced by Sitesecc under this Agreement.
- (ii) Immediately deliver up or make available to Sitesecc the Equipment plus any materials or goods in the Customer's possession which remain the property of Sitesecc.
- (d) Upon termination of this Agreement, the Agreement shall:
- (i) Be at an end as to its future operation, save and except for the enforcement of any right, claim or interest that arises on, before or as a result of the termination; and
- (ii) For the avoidance of doubt, no act of termination shall limit or prevent Sitesecc from enforcing any right to recover any materials or goods, any amount owed or enforce any security interests that Sitesecc has as a result of the Agreement.
- (e) Interest on overdue invoices accrues daily from the date when payment becomes due, until the date of payment, at a rate of ten (10%) per calendar month (and at Sitesecc's sole discretion, such interest will compound monthly at such a rate) after as well as before any judgment.
- (f) If the Customer owes Sitesecc any money, the Customer must indemnify Sitesecc from and against all costs and disbursements incurred by Sitesecc in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own Customer basis, Sitesecc's collection agency costs, and bank dishonour fees).
- (g) Without prejudice to any other remedies Sitesecc may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these Terms, Sitesecc may suspend or terminate the supply of Services to the Customer. Sitesecc will not be liable to the Customer for any loss or damage the Customer suffers because Sitesecc has exercised its rights under this clause.
- (h) Without prejudice to Sitesecc's other remedies at law Sitesecc is entitled to cancel all or any part the Services to the Customer which remain unfulfilled and all amounts owing to Sitesecc, whether or not due for payment, become immediately payable if:
- (i) any money payable to Sitesecc becomes overdue, or in Sitesecc's opinion, the Customer will be unable to make a payment when it falls due;
- (ii) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (iii) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

24. Privacy

- (a) Sitesecc shall adhere and comply to the National Privacy Principles in all dealings with a Customer. A copy of Sitesecc's Privacy Statement shall be made available upon request.

25. Dispute Resolution

- (a) A party to this Agreement may not commence legal proceedings, except proceedings seeking urgent interlocutory relief, in respect of any disputes in relation to this Agreement without first complying with the dispute resolution procedures in this Clause 24.
- (b) If a dispute arises out of, or in connection with, the Agreement, either party may give the other party a written notice of dispute setting out the details of the dispute. Notwithstanding the giving of notice, the Parties must continue to perform the Agreement.
- (c) Within 7 days after receiving notice of a dispute, the parties must arrange and participate in a without prejudice conference.
- (d) The parties agree to undertake in good faith to use all reasonable endeavours to settle the dispute by negotiation within seven (7) business days after receiving a notice of dispute by conference as stipulated in clause 24(c).
- (e) If the dispute is not settled by the parties in accordance with Clause 24(c), then either party may commence legal proceedings in a tribunal or court in relation to any part of a dispute that is not resolved.

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- (f) Nothing in this clause will prejudice the right of any party to institute legal proceedings for the purpose of applying for urgent injunctive or interlocutory relief in relation to any matter arising out of, or in connection with the Agreement.
- (g) This clause survives termination of the Agreement.
- (l) The Customer agrees that Sitesecc may amend these Terms at any time. If Sitesecc makes a change to these Terms, then those changes will take effect from the date on which Sitesecc notifies the Customer of such changes. The Customer will be taken to have accepted such changes if the Customer makes a further request for Sitesecc to provide Services to the Customer.

26. General

- (a) No contract or agreement shall exist between the Customer and Sitesecc except upon the terms and conditions of this Agreement unless the terms have been specifically agreed to by Sitesecc in writing.
- (b) Any provision of this Agreement, which is found to be invalid must be read down to the minimum extent necessary to achieve validity if applicable or otherwise be severed from the Agreement without affecting the validity of the remaining provisions of this Agreement.
- (c) The Customer cannot assign or otherwise transfer its rights or obligations under the Agreement without prior written consent of Sitesecc. Sitesecc however may assign or transfer the Agreement by way of written notice to the Customer.
- (d) The Agreement cannot be amended or varied except in writing signed by the Parties.
- (e) The failure by Sitesecc to insist on strict performance of any part of the Agreement is not a waiver of any rights that Sitesecc has or may have and no express waiver will be deemed to be a waiver of any subsequent breach of any term, warranty or condition of this Agreement.
- (f) Unless otherwise specified, time is of the essence in the Agreement and these Terms.
- (g) The failure by Sitesecc to enforce any provision of the Agreement or of these Terms will not be treated as a waiver of that provision, nor will it affect Sitesecc's right to enforce that provision subsequently. If any provision of the Agreement or of these Terms is invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.
- (h) These Terms and any Agreement to which they apply are governed by the laws of Queensland and are subject to the jurisdiction of the courts in Queensland including the Federal Court.
- (i) The Customer is not entitled to set off against, or deduct from the Hire Fees or the Associated Fees, any sums owed or claimed to be owed to the Customer by Sitesecc nor to withhold payment of any invoice because part of that invoice is in dispute.
- (j) Sitesecc may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- (k) Any invoice of Hire Fees and Associated Fees issued in accordance with this Contract shall be a payment claim under the Security of Payment Legislation.
- (m) The Customer warrants that it has the power to enter into the Agreement and has obtained all necessary authorisations to allow it to do so; it is not insolvent and that this Agreement and these Terms create binding and valid legal obligations on it.