

TERMS AND CONDITIONS OF TRADE

1. Definitions

- 1.1 “Nqpetro” means Nqpetro Pty Ltd, its successors and assignor any person acting on behalf of and with the authority of Nqpetro Pty Ltd.
- 1.2 “Customer” means the person/s or firm or corporation buying the Goods and Services as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally. It includes the Customer’s executors, administration, successors and permitted assigns.
- 1.3 “Goods” means all Goods or Services supplied by Nqpetro to the Customer at the Customer’s request (where the context so permits the terms ‘Goods’ or ‘Services’ shall be interchangeable for the other).
- 1.4 “Price” means the Price payable for the Goods as agreed between Nqpetro and the Customer in accordance with clause 5 below.
- 1.5 “GST” has the same meaning it has in the GST Legislation.
- 1.6 “GST Legislation” means for Australia a New Tax System (Goods and Services) Tax Act 1999 and all other Acts and Regulations dealing with the imposition of GST.
- 1.7 “PPSA” means the Australian Personal Property Securities Act 2009.

2. Acceptance

- 2.1 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 the Goods.
- 2.2 These terms and conditions may only be amended with Nqpetro’s consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and Nqpetro.

3. Change in Control

- 3.1 The Customer shall give Nqpetro 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, or business practice). The Customer shall be liable for any loss incurred by Nqpetro as a result of the Customer’s failure to comply with this clause.

4. Limits of Offer

- 4.1 A quotation provided by Nqpetro to the Customer only covers the Goods listed in the basic specifications of Goods listed. All descriptive material, drawings, particulars of weights and dimensions submitted with Nqpetro quotation are approximate. Nqpetro shall endeavor to supply to the Customer with the certified information upon request of the Customer.

5. Quotation Acceptance

- 5.1 The commencement of sale of Goods will only occur on the receipt of an official order, letter of intent or signed agreement.

6. Price and Payment

- 6.1 At Nqpetro's sole discretion the Price shall be either:
- a) as indicated on any invoice provided by Nqpetro to the Customer; or
 - b) Nqpetro's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days from the date of submission (unless stated otherwise). Nqpetro respectfully reserves the right to revise the quoted Price or withdraw completely without any penalties.
- 6.2 Nqpetro reserves the right to change the Price if a variation to Nqpetro's quotation is requested. Extra charges may be charged to the Customer by Nqpetro for specially procured Goods, and any permits, license fees and/or toll charges incurred.
- 6.3 At Nqpetro's sole discretion a non-refundable deposit may be required.
- 6.4 Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by Nqpetro which may be:
- a) on delivery of the Goods;
 - b) before delivery of the Goods;
 - c) thirty (30) days following the date of the invoice;
 - d) thirty (30) days following the end of the month for pre-approved credit account Customers in which a statement is posted to the Customer's address or address for notices;
 - e) the date specified on any invoice or other form as being the date for payment; or
 - f) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Nqpetro.
- 6.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card or by any other method as agreed to between the Customer and Nqpetro.
- 6.6 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to Nqpetro an amount equal to any GST Nqpetro must pay for any supply by Nqpetro under this or any other agreement 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.
- 6.7 Should a payment become sixty (60) days or more delinquent, Nqpetro reserves the right to stop all work without notice and/or cancel this Agreement, and the entire Agreement amount shall become payable immediately upon demand.
- 6.8 All payment claims are made under the Building and Construction Industry Security of Payments Act 2004 (BCIPA) QLD unless otherwise stated.
- 6.9 In the event Nqpetro must commence legal actions to recover any amount payable, the Customer shall pay Nqpetro any legal costs associated with these legal actions incurred by Nqpetro.
- 6.10 The costs of imported Goods included in the quotation are subject to the exchange rate variation from the date of the quote to the date the quotes imported Goods are cleared by Customs. Nqpetro reserves the right to vary the Price to recover any potential negative impact on the Price due to the exchange rate fluctuations.

7. Delivery of Goods

- 7.1 Delivery (“Delivery”) of the Goods is taken to occur at the time that:
- a) the Customer or the Customer’s nominated carrier takes possession of the Goods at Nqpetro’s address; or
 - b) Nqpetro (or Nqpetro’s nominated carrier) delivers the Goods to the Customer’s nominated address even if the Customer is not present at the address.
- 7.2 At Nqpetro’s sole discretion the cost of delivery is either included in the Price or is in addition to the Price.
- 7.3 All times and dates quoted for dispatch or delivery, following Nqpetro’s acceptance of the Customers order, are based on receipt by Nqpetro’s full and final instructions provided by the Customer, enabling Nqpetro to proceed uninterrupted with the delivery.
- 7.4 Should the Customer fail to provide sufficient instructions, enabling Nqpetro to deliver the Goods to the Customer, with fourteen (14) days of notification of readiness for dispatch by Nqpetro, Nqpetro may arrange for suitable storage and insurance until the Goods are dispatched. Charges for storage, insurance, transport and other incidental costs may be charged by Nqpetro to the Customer.
- 7.5 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.
- 7.6 Nqpetro may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 7.7 In the event Nqpetro is requested by the Customer to complete urgent repairs and maintenance after normal trading hours, a call-out fee will be charged to the Customer based on the existing rates.
- 7.8 Any time or date given by Nqpetro to the Customer is an estimate only. The Customer must still accept delivery of the Goods even if late and Nqpetro will not be liable for any loss or damage incurred by the Customer as a result of the delivery being late.

8. Risk

- 8.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.
- 8.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, Nqpetro is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Nqpetro is sufficient evidence of Nqpetro’s rights to receive the insurance proceeds without the need for any person dealing with Nqpetro to make further enquiries.
- 8.3 If the Customer requests Nqpetro to leave Goods outside Nqpetro’s premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer’s sole risk.

9. Title

- 9.1 Nqpetro and the Customer agree that ownership of the Goods shall not pass until:
- a) the Customer has paid Nqpetro all amounts owing to Nqpetro; and
 - b) the Customer has met all of its other obligations to Nqpetro.
- 9.2 Receipt by Nqpetro 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.

9.3 It is further agreed that:

- (a) until ownership of the Goods passes to the Customer in accordance with clause 9.1 that the Customer is only a bailee of the Goods and must return the Goods to Nqpetro on request.
- (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for Nqpetro and must pay to Nqpetro the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
- (c) the Customer must not sell, dispose of, or otherwise part with possession of the Goods other than in the ordinary course of business and for the market value. If the Customer sells, disposes of or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for Nqpetro and must pay or deliver the proceeds to Nqpetro on demand.
- (d) 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 Nqpetro and must sell, dispose of or return the resulting product to Nqpetro as it so directs.
- (e) the Customer irrevocably authorises Nqpetro to enter any premises where Nqpetro believes the Goods are kept and recover possession of the Goods.
- (f) Nqpetro may recover possession of any Goods in transit whether or not delivery has occurred.
- (g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Nqpetro.
- (h) Nqpetro may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

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

10.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

10.2 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 Goods that have previously been supplied and that will be supplied in the future by Nqpetro to the Customer.

10.3 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 Nqpetro 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 10.3(a)(i) or 10.3(a)(ii);
- b) indemnify, and upon demand reimburse, Nqpetro 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 Nqpetro;

- d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of Nqpetro;
 - e) immediately advise Nqpetro 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.
- 10.4 Nqpetro 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.
- 10.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 10.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 10.7 Unless otherwise agreed to in writing by Nqpetro, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 10.8 The Customer must unconditionally ratify any actions taken by Nqpetro under clauses 10.3 to 10.5.
- 10.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions the PPSA.

11. Security and Charge

- 11.1 In consideration of Nqpetro 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).
- 11.2 The Customer indemnifies Nqpetro from and against all Nqpetro's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Nqpetro's rights under this clause.
- 11.3 The Customer irrevocably appoints Nqpetro and each director of Nqpetro as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Customer's behalf.

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

- 12.1 The Customer must inspect the Goods on delivery and must within seven (7) days of delivery notify Nqpetro in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow Nqpetro to inspect the Goods.
- 12.2 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).
- 12.3 Nqpetro acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 12.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Nqpetro makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Nqpetro's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 12.5 If the Customer is a consumer within the meaning of the CCA, Nqpetro's liability is limited to the extent permitted by section 64A of Schedule 2.

- 12.6 If Nqpetro is required to replace the Goods under this clause or the CCA, but is unable to do so, Nqpetro may refund any money the Customer has paid for the Goods.
- 12.7 If the Customer is not a consumer within the meaning of the CCA, Nqpetro'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 Nqpetro at Nqpetro's sole discretion;
 - limited to any warranty to which Nqpetro is entitled, if Nqpetro did not manufacture the Goods;
 - otherwise negated absolutely.
- 12.8 Subject to this clause 12, returns will only be accepted provided that:
- the Customer has complied with the provisions of clause 12.1; and
 - Nqpetro 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.
- 12.9 Notwithstanding clauses 12.1 to 12.8 but subject to the CCA, Nqpetro 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 the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - the Customer failing to follow any instructions or guidelines provided by Nqpetro;
 - fair wear and tear, any accident, or act of God.
- 12.10 In the case of second hand Goods, unless the Customer is a consumer under the CCA, the Customer acknowledges that it has had full opportunity to inspect the second-hand Goods prior to delivery and accepts them with all faults and that to the extent permitted by law no warranty is given by Nqpetro as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Customer acknowledges and agrees that Nqpetro has agreed to provide the Customer with the second-hand Goods and calculated the Price of the second-hand Goods in reliance of this clause 12.10.
- 12.11 Nqpetro may in its absolute discretion accept non-defective Goods for return in which case Nqpetro may require the Customer to pay handling fees of up to twenty-five percent (25%) of the value of the returned Goods plus any freight costs.
- 12.12 Notwithstanding anything contained in this clause if Nqpetro is required by a law to accept a return then Nqpetro will only accept a return on the conditions imposed by that law.
- 12.13 Throughout the defects liability period, any warranty and maintenance services to be performed during the normal working hours. Any after hour service constitutes a variation to the contract, purchase order or letter of intent and may be charged additionally to the agreed price.
- 12.14 Nqpetro only warrants its own workmanship performed. The warranty period is the twelve (12) month period from the date of works performed or installed.



- 12.15 All Goods sold are covered by the manufacturer warranty benefits for the period specified by each manufacturer.
- 12.16 Where goods are covered by a manufacturer's warranty, and Nqpetro is an authorized warranty repair agent for this manufacturer, proof of purchase may be required and requested by the manufacturer prior to warranty repair. The manufacture must be satisfied that a claim is valid and approve such services prior to Nqpetro engagement. If Nqpetro is not an approved warranty repair agent for the manufacturer, then to make a warranty claim the goods are to be delivered directly to the manufacturer or authorized warranty repair agent.
- 12.17 Removal and reinstallation of any equipment, parts or materials repaired or replaced under a manufacturer's warranty will be at the Customers expense and the current rates then in effect. If any replaced Good (replacement of equipment, part or materials) proves defective and the manufacturer extends the benefits of any warranties for these equipment, parts or materials, Nqpetro will extent these warranty benefits to the Customer but only to the limit of the manufacturer benefits.
- 12.18 Nqpetro reserves the right to void any warranty should the works be interfered with or tampered with by the other trades.
- 12.19 Nqpetro is not liable to incur charges associated with a warranty claim outside the parameters of Goods supplied. All costs incurred by the Customer or third-party entity over and above the original invoice value for the claim are not subject to this warranty.

13. Intellectual Property

- 13.1 Where Nqpetro has designed, drawn or developed Goods for the Customer, then the copyright in any designs and drawings and documents shall remain the property of Nqpetro.
- 13.2 The Customer warrants that all designs, specifications or instructions given to Nqpetro will not cause Nqpetro to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify Nqpetro against any action taken by a third party against Nqpetro in respect of any such infringement.
- 13.3 The Customer agrees that Nqpetro may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which Nqpetro has created for the Customer.

14. Default and Consequences of Default

- 14.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Nqpetro's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 14.2 If the Customer owes Nqpetro any money the Customer shall indemnify Nqpetro from and against all costs and disbursements incurred by Nqpetro in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Nqpetro's collection agency costs, and bank dishonour fees).
- 14.3 Without prejudice to any other remedies Nqpetro may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Nqpetro may suspend or terminate the supply of Goods to the Customer. Nqpetro will not be liable to the Customer for any loss or damage the Customer suffers because Nqpetro has exercised its rights under this clause.
- 14.4 Without prejudice to Nqpetro's other remedies at law Nqpetro shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Nqpetro shall, whether or not due for payment, become immediately payable if:

- a) any money payable to Nqpetro becomes overdue, or in Nqpetro's opinion the Customer will be unable to make a payment when it falls due;
- b) 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
- c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

15. Cancellation

- 15.1 Nqpetro may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice Nqpetro shall repay to the Customer any money paid by the Customer for the Goods. Nqpetro shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 15.2 In the event that the Customer cancels delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Nqpetro as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 15.3 Cancellation of orders for Goods made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

16. Privacy Act 1988

- 16.1 The Customer agrees for Nqpetro 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 Nqpetro.
- 16.2 The Customer agrees that Nqpetro 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 credit worthiness of the Customer including the Customer's repayment history in the preceding two years.
- 16.3 The Customer consents to Nqpetro being given a consumer credit report to collect overdue payment on commercial credit.
- 16.4 The Customer agrees that personal credit information provided may be used and retained by Nqpetro for the following purposes (and for other agreed purposes or required by):
 - a) the provision of Goods; and/or
 - b) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; 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 Goods.
- 16.5 Nqpetro 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.

16.6 The information given to the CRB may include:

- a) personal information as outlined in 16.1 above;
- b) name of the credit provider and that Nqpetro 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 Nqpetro has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
- g) information that, in the opinion of Nqpetro, 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).

16.7 The Customer shall have the right to request (by e-mail) from Nqpetro:

- a) a copy of the information about the Customer retained by Nqpetro and the right to request that Nqpetro correct any incorrect information; and
- b) that Nqpetro does not disclose any personal information about the Customer for the purpose of direct marketing.

16.8 Nqpetro 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 fulfill the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.

16.9 The Customer can make a privacy complaint by contacting Nqpetro via e-mail at info@nqpetro.com.au. In order to resolve a complaint, Nqpetro:

- a) will liaise with the Customer to identify and define the nature and cause of the complaint;
- b) may request that the Customer detail the nature of the complaint in writing;
- c) will keep the Customer informed of the likely time within which Nqpetro will respond to the Customer's complaint;
- d) will inform the Customer of the legislative basis (if any) of Nqpetro's decision in resolving such complaint; and
- e) keep a record of the complaint and any action taken in the Complaint's Register.

17. Unpaid Seller's Rights

- 17.1 Where the Customer has left any item with Nqpetro for repair, modification, exchange or for Nqpetro to perform any other service in relation to the item and Nqpetro has not received or been tendered the whole of any moneys owing to it by the Customer, Nqpetro shall have, until all moneys owing to Nqpetro are paid:
- a) a lien on the item; and
 - b) the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.
- 17.2 The lien of Nqpetro shall continue despite the commencement of proceedings, or judgment for any moneys owing to Nqpetro having been obtained against the Customer.

18. Contract Variation

- 18.1 Any variation to the original agreement may constitute an extension of time to the contract period, the extent of which shall be governed by the work involved.
- 18.2 Any alteration to, deviation from the original agreement involving extra work, cost of parts or materials or additional labor will be charged extra costs to the Customer over the sum stated in the original agreement.

19. General

- 19.1 The failure by Nqpetro to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Nqpetro'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.
- 19.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the state in which Nqpetro has its principal place of business, and are subject to the jurisdiction of the courts in that state.
- 19.3 Subject to clause 12 Nqpetro 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 Nqpetro of these terms and conditions (alternatively Nqpetro's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 19.4 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 Nqpetro nor to withhold payment of any invoice because part of that invoice is in dispute.
- 19.5 Nqpetro may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 19.6 The Customer agrees that Nqpetro may amend these terms and conditions at any time. If Nqpetro makes a change to these terms and conditions, then that change will take effect from the date on which Nqpetro notifies the Customer of such change. The Customer will be taken to have accepted such changes if the Customer makes a further request for Nqpetro to provide Goods to the Customer.
- 19.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, damage caused by electrical supply power fluctuations or other event beyond the reasonable control of either party.
- 19.8 The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.