Purchase Order Terms & Conditions for The Supply of Goods Over AUD25,000

1. Definitions

In these Conditions:-

'Consequential Loss" includes loss of contract, business opportunity, profit, anticipated profit, production, use, revenue or interest payable (or any loss of a similar nature) howsoever caused, arising out of or in connection with the Contract and whether or not foreseeable or in the ordinary contemplation of the Purchaser and/or the Supplier at the date of award of the Contract, irrespective of whether such loss is caused by the negligence or breach of duty (statutory or otherwise) of the Purchaser and/or the Supplier.

'Defects Liability Period" shall mean one year from the date when the Goods are brought into service which shall in any event, be no later than 6 months from the date of delivery of the Goods to the Delivery Point.

'These Conditions' shall mean the terms and conditions contained herein.

'The Contract' shall mean these Conditions, the Purchase Order and the documents listed therein.

'The Delivery Date' shall mean the date for delivery of the Goods specified in the Purchase Order.

'The Delivery Point' shall mean the place for delivery of the Goods specified in the Purchase Order.

'The Goods' shall mean the goods described in the Purchase Order (including any replaced goods and spare parts) and the term 'the Goods' shall whenever the context permits include any work or services performed under the Contract by the Supplier or any of its sub-contractors in connection with or incidental to the Goods or the Works.

'The Owner' shall mean the person or persons or firm or company for whom the Purchaser has undertaken to execute the Works or any part thereof.

'The Purchase Order' shall mean a document headed 'Purchase Order', together with any amendment thereto signed by or on behalf of the Purchaser, and issued to the Supplier.

'The Purchaser' shall mean Clough AMEC Pty Ltd (ABN 26 116 355 572).

'The Supplier' shall mean the person or persons or firm or company to whom the Purchase Order is issued.

'The Works' shall mean the works for and in connection with which the Goods are required.

'Statutory Requirements' shall include without limitation (i) the laws of the Commonwealth of Australia; (ii) acts and ordinances of any country, state or territory in which the Works are to be carried out; and (iii) all other laws, regulations, conventions, orders and directions given by or on behalf of any governmental or semi-governmental authority which may apply to the Owner, the Purchaser or the Supplier including, without limitation, anti-corruption laws, employment laws, export and re-export laws and regulations, health, safety and environment laws and competition laws.

2. Pricing and Payment

(a) The price of the Goods shall be as stated in the Purchase Order and except as otherwise agreed in writing between the parties shall be the total compensation payable to the Supplier under the Contract.

(b) Unless otherwise agreed in writing by the Purchaser, the price shall include all transportation, freight, packaging, handling and storage of the Goods until delivery at the Delivery Point.

(c) Unless otherwise stated, the price stated in the Purchase Order is in Australian currency excluding GST, fixed and firm, not subject to escalation for the duration of the Purchase Order. The price of the Goods and the amount of GST shall be stated separately.

(d) The Purchaser reserves the right to set off any sums in respect of which the Supplier may be indebted or in default to the Purchaser whether or not in connection with the sale or supply of the Goods.

(e) Unless the Purchase Order otherwise provides, the Supplier shall not invoice the Purchaser until performance of this Contract has been completed.

(f) Unless the Purchase Order otherwise provides, payment of amounts correctly invoiced by the Supplier shall, subject to sub-clauses (d) and (g) of this Clause, be made by the end of the month following the month in which the invoice is received which shall be the due date for payment.

(g) No payment made by the Purchaser shall in any way be construed as acceptance of any of the Goods supplied or work or services performed by the Supplier or any of its subcontractors and no payment shall in any way impair or restrict any rights or remedies the Purchaser may have under the Contract or otherwise for and in connection with the supply of the Goods and/or the performance of work or services under the Contract by the Supplier or any of its subcontractors.

3. Delivery

(a) The Goods shall be securely and properly packed by the Supplier and, if applicable, in accordance with any instructions given by the Purchaser and delivered to the address specified on the Purchase Order (hereinafter called 'the Delivery Point'). The Supplier shall give reasonable notice to the Purchaser of the time of delivery.

(b) It is a condition of the Contract that the Supplier shall, subject to the provisions of Clauses 5, 6 and 15 hereof, deliver the Goods at the date and/or within the time or period stated in the Purchase Order. Time is of the essence for delivery of the Goods to the Delivery Point.

(c) Subject to Sub-clause (b) above, the Supplier shall give the Purchaser immediate notice of any potential delay in delivery.

(d) In giving the notice required under Sub-clause (c) above the Supplier shall state whether, in his opinion, any part of the delay has been caused by the Purchaser being in breach of the Contract and shall provide details of the alleged breach(es) and the resulting delay. Provided

notice is given as aforesaid the Purchaser shall grant such extension of any date or period specified in the Contract as shall, in his opinion, be fair and reasonable but only to the extent that any such delay has been caused by the Purchaser being in breach of the Contract.

(e) Without prejudice to any of the Supplier's obligations under the Contract the Supplier and its sub-contractors shall at all times allow persons duly authorised by the Purchaser to enter upon the premises where the Goods or any part thereof is being manufactured or any work in connection therewith is being carried out and shall provide such programmes, schedules, reports and other information as the Purchaser may require to monitor the progress of the Goods and to satisfy the Purchaser that all practicable measures have been and are being taken to meet the due date and/or time of delivery.

(f) Delivery in instalments or separate consignments shall be permitted only with the prior consent in writing of the Purchaser and only in accordance with the terms of such consent, and such permission, if given shall not entitle the Supplier to claim payment prior to delivery of the whole of the Goods, unless otherwise expressly agreed in writing by the Purchaser.

4. Risk and Title

(a) In no circumstances shall the risk of damage to or loss or destruction of the Goods pass to the Purchaser prior to delivery of the Goods to the Delivery Point. The Supplier indemnifies the Purchaser against any loss or damage to the goods prior to their delivery to the Delivery Point.

(b) Title in the Goods or any part thereof shall pass to the Purchaser upon delivery of the Goods to the Delivery Point or upon payment for the Goods or any such part whichever is the sooner. Any Goods for which the Purchaser has paid but which have not been delivered shall be clearly identified as the property of the Purchaser and stored in safe and suitable conditions and in accordance with any instructions given by the Purchaser.

(c) Where the Purchaser or the Owner for the purposes of the Contract issues materials or other items free of charge to the Supplier, such materials and other items shall be and shall remain the property of the Purchaser or the Owner as the case may be and shall be used by the Supplier solely in connection with the Contract. The Supplier shall, (unless within three working days from receipt thereof the Supplier notifies the Purchaser in writing to the contrary setting out appropriate details), be deemed to have satisfied itself as to the suitability of such materials and other items for their intended use and to have received same in good order and condition and in the quantities specified in the Contract. The Supplier shall thereafter be responsible for and accountable to the Purchaser for any loss of or damage thereto (including without limitation any waste thereof arising from any fault or neglect of the Supplier) until safe delivery of the completed Goods incorporating the said materials and/or other items is effected in accordance with Clause 3 hereof and any scrap or surplus arising from free-issue materials and/or other items as the Purchaser may at its option have decided and instructed the Supplier is/are (i) safely delivered with the Goods as aforesaid or (ii) sold by the Supplier by competitive tender and the amount so obtained paid or credited to the Purchaser.

5. Storage

(a) The Purchaser shall store the Goods at the Delivery Point in accordance with such storage requirements as included in the Contract. Where the Contract is silent on storage requirements for the Goods then the Supplier warrants that the Goods may be stored without deterioration in the open on the ground whilst in the condition general to the Delivery Point.

(b) If the Purchaser is not able to accept delivery of the Goods on the due date:

(i) the Supplier shall at its own risk, (but subject to reimbursement as provided in Sub-clause (iii) of this Clause) if the Purchaser so requests, store the Goods at suitable premises, advising the Purchaser beforehand of the particulars of such proposed storage.

(ii) the Supplier shall insure the Goods for their full replacement value on 'all risks' terms acceptable to the Purchaser in the joint names of the Supplier and the Purchaser and shall notify the Purchaser of such insurance cover.

(iii) subject to receiving a certificate of insurance in a form acceptable to the Purchaser, the Purchaser shall reimburse the Supplier in respect of all reasonable storage charges and insurance premiums so incurred or paid.

6. Variations

(a) The Supplier shall not make any variations in the design, materials or method of manufacture of the Goods, nor substitute other parts or fitments for any proprietary or special parts or fitments ordered by the Purchaser without the prior written consent of the Purchaser.

(b) If the Purchaser refuses its consent under Sub-clause (a) above, and the Supplier is for any reason unable to perform the Contract without making the variation or substitution as requested the Purchaser may terminate the Contract in accordance with the provisions of Clause 12(b)(i) hereof.

(c) Where the Contract or any part thereof is terminated under Sub-clause (b) above, any payments already made by the Purchaser shall be returned to the Purchaser.

(d) The Purchaser shall have the right, from time to time during the performance of the Contract, by notice in writing to direct the Supplier to add to or omit, or otherwise vary the Goods (including without limitation any required changes in any drawings, specifications, instructions or directions) and the Supplier shall carry out such variations and be bound by the same terms and conditions so far as applicable, as though said variations were stated in the Contract.

(e) Any adjustment to the Contract price occasioned by any variation shall be ascertained and determined at the same level of pricing as that stated in the Purchase Order. The Supplier shall within five working days from receipt of the Purchaser's direction and if that direction so instructs prior to proceeding with the required variation advise the Purchaser in writing of its estimate of the amount of any such adjustment to the Contract price.

(f) If, in the opinion of the Supplier any such direction is likely to prevent the Supplier from fulfilling any of its obligations under the Contract, the Supplier shall within five working days from the receipt of the Purchaser's direction so notify the Purchaser and the Purchaser shall decide with all possible speed whether or not the same shall be carried out and shall confirm his direction in writing and modify the said obligations to such an extent as in the Purchaser's opinion may be justified. Until the Purchaser so confirms his instructions they shall be deemed not to have been given. If the Supplier fails to notify the Purchaser as aforesaid then the Supplier shall forfeit any right to modification of any of its obligations under the Contract by reason of or in connection with the aforementioned Purchaser's direction.

(g) Variations shall be confirmed by amendment to the Purchase Order, signed by or on behalf of the Purchaser and issued to the Supplier.

(h) The Supplier shall be deemed to have full knowledge and to have made full allowance in respect of all matters whatsoever (including without limitation any local conditions) that may be relevant to the proper performance of its obligations under the Contract. The Supplier shall in no event be entitled to any additional compensation or any modification to any of its obligations under the Contract by reason of or in connection with any failure on its part under this Sub-clause 6(h).

7. Quality

(a) (i) All Goods (including raw materials and unfinished goods) shall be provided and/or made in a professional manner using all due care and skill and shall, on delivery to the Purchaser, be of merchantable quality, fit for the purpose for which the Purchaser requires them and where applicable in accordance with the Purchaser's specifications, and of first class materials, workmanship and design, free of defects in materials, workmanship and design, comply with all relevant Statutory Requirements and with best industry practices, have a life expectancy commensurate with what could be expected of similar goods provided for similar purposes by a competent and reputable supplier or manufacturer, be manufactured strictly in accordance with any manufacturing drawings, specifications or descriptions supplied that have been certified for construction and be to the satisfaction of the Purchaser and the Owner. (ii) All Goods shall comply in all respects with the terms of the Contract and all warranties or representations given or made on behalf of the Supplier or implied at law. For the avoidance of doubt any express warranty or guarantee given by the Supplier shall commence from the time of delivery of the Goods to the Delivery Point until the completion of the Defects Liability Period, and shall extend to parts and labour.

(b) The Supplier shall satisfy itself that it understands the Purchaser's requirements in order to comply with the obligations contained in Sub-clause (a) above and also to prevent delay caused by any work which may be necessary to meet the Purchaser's requirements. The cost of any such work shall be borne by the Supplier.

(c) For the purpose of satisfying the Purchaser that the obligations contained herein are being observed, the Supplier and its sub-contractors shall at all times allow persons duly authorised by the Purchaser to make any inspections or tests which the Purchaser may require and/or witness any inspections or tests carried out by the Supplier pursuant to Sub-clause (e) of this Clause and shall afford to the Purchaser all reasonable facilities and assistance which shall be free of cost to the Purchaser unless specifically agreed in writing to the contrary.

(d) The Supplier shall operate a quality system in accordance with the relevant parts of AS/NZS ISO 9001 or equivalent.

(e) Without prejudice to the provisions of Sub-clause (c) of this Clause, the Supplier shall at its own expense carry out such inspections and tests of the Goods as may be required for the purposes of ensuring that the Goods are (i) safe and without risks to health when properly used and (ii) in full compliance with the Contract.

(f) If test certificates for the Goods are required by the Purchase Order they shall be forwarded to the Purchaser upon completion of testing.

8. Defects

(a) If, on inspection or test, (whether at any time prior to or after delivery) in manufacture or use, any Goods are found to be faulty in quality, damaged, defective, or not to comply with these Conditions (including Goods damaged in transit), the Purchaser may, at its option, (i) reject the whole or any part of the Goods in which event any payment previously made shall be refunded to the Purchaser or (ii) require the Supplier at its own cost either to replace the Goods or to promptly rectify any defect or (iii) undertake or procure at the risk and expense of the Supplier the replacement of the Goods or the rectification of any defect. Warranties and guarantees (paragraph (ii) of clause 7(a)) shall in respect of goods replaced and rectified as aforesaid be renewed from the dates it replaced or rectified goods are put into use by the owner.

(b) In addition to its remedies under Sub-clause (a) above the Purchaser shall be indemnified by the Supplier against all loss, damages, costs, charges, expenses or claims (including without limitation any claims by third parties) arising by reason of any failure of the Goods to comply with Clause 7(a) or any other terms of these Conditions whether express or implied by statute, common law, custom or otherwise or by reason of any act or omission of the Supplier, its servants, agents or sub-contractors in the performance of the Contract.

(c) Where the Purchaser requires the Supplier to rectify a defect: (i) wherever the Goods have been put into service, the remediation work shall be conducted in situ and notwithstanding that the remedial work may need to be performed at an offshore location; (ii) otherwise, the cost of collecting the Goods from and returning them to the Purchaser shall be borne by the Supplier; (iii) the cost of any additional inspection or testing of the replaced or repaired Goods and the cost of any further inspection or testing of other Goods as may be reasonably required by the Purchaser having due regard to the nature of the defect found in the Goods being replaced or repaired shall be borne by the Supplier; and (iv) the Supplier shall pay to the Purchaser a sum equal to the cost of any additional insurance considered necessary by the Purchaser. If remediation work is to be performed at an offshore site, all accommodation and messing at the offshore site shall be provided by the Purchaser at the Purchaser's expense. Such remediation work shall be undertaken promptly and without causing damage to any other property or materials and minimising disruption to the Purchaser or the Owner's ongoing operations.

(d) Any inspection, test, checking or approval by or on behalf of the Purchaser (or any failure to inspect, test, check, approve or make any complaint to the Supplier), shall in no event be construed as acceptance of any of the Goods supplied or work or services performed by the Supplier or any of its sub-contractors and shall in no way relieve the Supplier from any obligation or liability under the Contract or otherwise.

9. Assignment and Sub-Contracting

(a) The Supplier shall not sub-contract or assign the whole or any part of the Contract or the benefit thereof without the written consent of the Purchaser. Any consent given by the Purchaser under the foregoing provisions of this Sub-clause shall not relieve the Supplier from any obligation or liability under the Contract.

(b) When the Purchaser has consented to the placing of sub-contracts copies of each sub-contract or sub-order shall be sent to the Purchaser immediately they are issued unless the Purchaser has specifically requested or approved in writing otherwise.

(c) The Purchaser shall without consent from the Supplier have the right to assign the whole or any part of the Contract or the benefit or burden thereof to any of its parent, subsidiary or associated companies, or to the Owner or any of its parent, subsidiary or associated companies and, with the Supplier's written consent, which shall not be unreasonably withheld, to any other party.

(d) The Purchaser may at any time, without consent from the Supplier, assign all warranties or guarantees given by the Supplier to the Purchaser, to the Owner or any of its parent, subsidiary or associated companies. The Supplier hereby agrees to any such assignment.

10. Health and Safety

(a) The attention of the Supplier is drawn to the obligations imposed by Statutory Requirements, on designers, manufacturers, importers, suppliers, erectors and installers of articles and substances for use at work to ensure, so far as is reasonably practicable, that such articles and substances are so designed, constructed or installed to be safe and without risks to health at all times when they are being set, used, cleaned, maintained, handled, processed, stored or transported.

(b) Where by reason of its obligations under the said Statutory Requirements the Supplier has carried out or arranged for the carrying out of testing and examination of Goods to be sold hereunder for the purpose of ensuring that they are safe and without risks to health at the times mentioned above, the Supplier shall provide the Purchaser where appropriate on or before delivery of the Goods with proper documented results of such tests or examinations or, in default thereof, certificates issued by a duly qualified and authorised person that the tests and examinations proved satisfactory.

(c) Without prejudice to the obligation contained in Sub-clause (b) above, on or before delivery of the Goods to the Purchaser, the Supplier shall provide to the Purchaser in connection with the Goods information about the use for which such Goods have been designed and tested, and about any conditions necessary to ensure that when installed, commissioned and put to use the Goods will be safe and without risks to health.

(d) Nothing contained in the foregoing provisions of this Clause shall be construed as relieving the Supplier or in any way detracting from any obligation or liability the Supplier may have under the Health and Safety Statutory Requirements.

(e) Without prejudice to the generality of the foregoing in the event that the Supplier is required to supply personnel to perform any services of whatsoever nature at the site or a location other than the Supplier's place of business the Supplier hereby warrants and represents absolutely that all such personnel shall be in a good and sufficient state of health so as to perform such services without hazard to others.

(f) Where in the performance of the Supplier's obligations under this Contract the Supplier, its sub-contractors, tradesmen or artisans intend either to supply to the Purchaser, or to use any product which may or does contain a substance or substances which is or are hazardous to health in respect of Statutory Requirements, the Supplier shall supply full details both of such product and such substance in duplicate forthwith.

In supplying such details the Supplier will include in relation to both the product and the substance, without limitation, details of any assessment or monitoring which has been carried out and any data concerned with information or training.

The Supplier shall in addition supply promptly, but no later than seven days following the Purchaser's written request, any other supporting documentation or information relating to the product which the Purchaser may reasonably request.

In considering whether any product contains a substance which falls within the above Regulations, the Supplier shall include any substance which may be comprised in the product and which may be released either by cutting, grinding, spreading or burning the product or by mixing or using the product with other products or by any other means.

11. Suspension

The Purchaser shall, by notice in writing to the Supplier, be entitled to suspend the Contract or any part thereof. If the Supplier shall be delayed in the performance of any of his obligations under the Contract by any suspension order (other than a suspension order given by reason of the Supplier's own breach of the Contract) then any additional cost or expense directly and unavoidably incurred by the Supplier as a result of such order shall be added to the Contract price. The Purchaser, however, shall in no event be liable to the Supplier for any loss of profit, loss of use or loss of trading revenue, whether arising in connection with or as a result of such suspension or otherwise.

12. Termination of the Contract

(a) In addition and without prejudice to the Purchaser's right to terminate the Contract or any part thereof under any other provision in these Conditions, the Purchaser shall have the right at its sole discretion to terminate the Contract or any part thereof for any reason at any time prior to discharge of the Contract by performance by giving notice in writing to the Supplier under this Sub-clause.

(b) The Purchaser shall also have the right to terminate the Contract or any part thereof forthwith:

(i) if the Supplier shall be in breach of any of the obligations set out in these Conditions or in the Purchase Order and (if the breach is capable of being remedied) shall not have remedied such breach to the complete satisfaction of the Purchaser within seven days (or within such longer period as the Purchaser may have agreed in writing), after notice thereof in writing (ii) in the event that the Supplier becomes bankrupt, or compounds or makes any arrangements with his creditors, or commits any act of bankruptcy, or where the Supplier, being a body corporate, goes into liquidation, whether compulsory or voluntary (save for the purpose of reconstruction or amalgamation while solvent), or has a receiver and/or manager appointed of its undertaking or assets or any part thereof.

(c) Termination of this Contract or any part thereof for any reason shall be without prejudice to the rights and remedies of either party hereto accrued up to and including the date of such termination.

(d) Unless the Purchaser's termination notice otherwise provides, upon receipt of such notice the Supplier shall promptly cease any further work (except on any part not terminated by the Purchaser) and shall instruct its sub-contractors if any, to similarly do so, and shall comply with all reasonable instructions from the Purchaser in regard to termination.

(e) Subject to clause 12(f), the Supplier hereby agrees that notwithstanding anything contained elsewhere in the Contract to the contrary, whether expressly or by implication, the Supplier's sole remedy in the event of termination pursuant to Sub-clause (a) of this Clause is to receive payment from the Purchaser of (i) such part of the Contract price as represents the value of Goods (if any) completed, delivered and accepted in accordance with the Contract prior to the date of receipt of such termination notice, less any monies previously received under the Contract (ii) any direct costs and expenses reasonably and necessarily incurred by the Supplier in complying with the provisions of sub-clause (d) as substantiated to and agreed by the Purchaser or (iii) in lieu of (i) and (ii) such sum as the Purchaser and the Supplier may agree as full and final settlement. The Purchaser, however, shall in no event be liable to the Supplier for any loss of profits, loss of use or loss of trading revenue, whether arising in connection with or as a result of such termination or otherwise.

(f) In the event that the termination is due to the Supplier's default or a termination pursuant to clause 12(b) the Purchaser may withhold any monies due under these Conditions to the Supplier until such time as the Works have been satisfactorily completed by an alternative supplier and any costs incurred by the Purchaser as a result of the termination have been determined. If the additional costs incurred by the Purchaser are over and above the amount that would have been payable to the Supplier under these Conditions, the difference will be a debt due to the Purchaser from the Supplier.

13. Patents, Copyrights, Supplier Developments

The Supplier warrants that the supply by the Supplier and the use by the Purchaser or Owner or any other user of the Goods does not and will not infringe the intellectual property rights of any third party, whether in the form of letters patent, trade or service marks, registered designs, unregistered designs, copyright or any other similar right and the Supplier shall indemnify the Purchaser and the Owner against all claims, demands, damages, penalties, costs, expenses or liability arising as a result of the breach of this warranty by the Supplier.

Title to, copyright in, possession of and free use of all drawings, documents, calculations or any other documentation and intellectual property produced under the Purchase Order shall vest in the Purchaser immediately upon commencement of the Works. The Purchaser shall grant the Supplier a non-exclusive irrevocable, royalty free license to use such documentation and intellectual property for the purpose of the Works.

14. Confidentiality

(a) Any items provided to the Supplier by the Purchaser or the Owner (including without prejudice to the generality of the foregoing, specifications, plans, drawings, designs, samples, patterns, dies, moulds, gauges, equipment, material and computer programmes, whether by way of free issue or not) for use in connection with the Contract, whether for incorporation in the Goods or not, shall be and remain the property of the Purchaser or the Owner, as the case may be, and the Supplier shall (i) bear the risk of loss of or damage to such items and be generally responsible and accountable to the Purchaser there for in accordance with Clause 4(c) hereof; (ii) affix and keep affixed a clear sign upon each such item indicating that it is the property of the Purchaser or the property of the Owner, as the case may be; (iii) not without the Purchaser's prior written consent use or allow the use of any such items for any purpose whatsoever, other than the supply of the Goods and the carrying out of any associated work under the Contract; (iv) not without the Purchaser's prior written consent disclose or allow the disclosure of any such item or information relating thereto to any person whatsoever save for the purposes of the proper performance of the obligations owed to the Purchaser by the Supplier under the Contract; and (v) upon completion by performance or termination of the Contract, or earlier at the Purchaser's request, return to the Purchaser all such items.

(b) The Supplier shall not publish any information in connection with the Works, or the Contract, or the Goods supplied or to be supplied hereunder without the prior written consent of the Purchaser.

(c) The provisions of this Clause and Clauses 13 and 17 shall remain in effect notwithstanding any discharge by performance, termination or suspension of the Contract, howsoever arising.

15. Force Majeure

(a) If either party is prevented or hindered from carrying out its obligations hereunder by Force Majeure (as defined in Sub-clause (b) of this Clause), the party affected shall immediately and in any event within 10 days, notify the other party in writing giving full particulars of the Force Majeure. Thereafter the performance of such obligations shall be suspended for such time as the Force Majeure circumstances last and the party affected shall not be liable for any loss or damage caused to the other by the delay, but shall however resume performance of the suspended obligations as soon as the Force Majeure circumstances cease to exist unless the Contract has prior thereto been terminated by the Purchaser pursuant to Sub-clause (c) of this Clause.

(b) 'Force Majeure' shall, for the purpose of this Contract mean any circumstances which were not reasonably foreseeable and which were beyond the control of the Purchaser or the Supplier or the Supplier's sub-contractors and which by the exercise of reasonable diligence the Purchaser or the Supplier or the Supplier's sub-contractors would have been unable to prevent or provide against and shall in any event be limited solely to riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority, earthquakes, flood, fire or other physical natural disaster (but excluding weather conditions regardless of severity), strikes or industrial disputes at a national level or any regulation, direction or instruction issued by a government or regulatory authority including the withholding, withdrawal or delay of any requisite consent or approval from such body.

(c) In the case of Force Majeure extending beyond a reasonable time (which term for the purposes of this Contract shall in any event include any period in excess of thirty days) the Purchaser may by notice in writing to the Supplier terminate the Contract, with no liability on either party for loss or damage thereby occasioned.

16. Labelling and instructions

(a) The Supplier warrants that the design, construction, quality, packaging and labelling of the Goods shall comply in all respects with any requirements of any statute, order or other instrument having the force of law, which may be in force at the times when the Goods are supplied.

(b) All marking and labelling of the Goods (i) necessary to ensure safe and proper handling, processing, storage and transport and (ii) as particularly required by the Purchaser shall be carried out by the Supplier.

(c) Hazardous goods must have prominent warnings in English and any other language as may be specified in the Purchase Order on all packing and documents.

17. Liens and Claims

The Supplier shall indemnify and hold the Purchaser and the Owner harmless from all liens and other encumbrances against the Goods or any property belonging to or in the possession of the Purchaser or the Owner on account of debts or claims alleged to be due from the Supplier or its sub-contractors to any person, including sub-contractors, and on behalf of the Purchaser or the Owner and in the Purchaser's or the Owner's name, as the case may be, shall defend at its own expense any claim or litigation in connection therewith and shall follow any reasonable instructions issued by the Purchaser or the Owner in connection therewith.

18. Late Delivery

If the Goods or any part thereof are not delivered by the due date and/or time, the Purchaser may at its option and without prejudice to any other rights or remedies it may have; either:

(a) refuse to take delivery of or reject the Goods or any part thereof as it may choose, and the Purchaser shall have no liability for the payment thereof, or,

(b) take delivery of and subject to Clause 8 hereof keep the Goods or any part thereof as it may choose, in which event the Supplier shall pay to the Purchaser such Liquidated Damages, if any, as may be specified in the Purchase Order or if no Liquidated Damages are specified in the Purchase Order, such sum as the Purchaser may claim for any costs, losses, damages and expenses suffered or incurred by the Purchaser as a result of or in connection with such late delivery.

19. Insurance

(a) The Supplier shall at its own expense effect and maintain throughout the performance of the Contract (i) such insurances as the Supplier may be required to effect and maintain by law; (ii) 'all risks' transit insurance for the full replacement value of the Goods and other items while they remain at the Supplier's risk; (iii) insurance in respect of liability for death of or injury to third parties or loss of or damage to third party property for an amount of not less than USD10,000,000, any one occurrence, unlimited in the aggregate; and (iv) adequate insurance for such other of the Supplier's insurable obligations under the Contract (including in particular its obligations under Clauses 7 and 8; and Construction Plant & Equipment insurance where the Purchase Order specifies equipment to be hired to the Purchaser or where erection work will be undertaken by the Supplier) as a prudent and competent person entering into the Contract would effect and maintain.

(b) The Supplier shall provide the Purchaser upon request with details of all insurance cover for the time being held by it in relation to the Goods and the Supplier's obligations under the Contract.

20. No Waivers

No failure on the part of the Purchaser at any time or from time to time to enforce or to require the strict adherence and performance of any of the terms, Conditions and provisions of the Contract shall constitute a waiver of such terms, Conditions or provisions and/or affect or impair such terms, Conditions or provisions in any way or the right of the Purchaser at any time to avail itself of such remedies as it may have for each and every breach of such terms, Conditions or provisions.

21. Conditions and Acceptance of Order.

No servant or agent of the Purchaser has any authority to agree to any variation of or addition to these Conditions, unless such variation or addition is expressed in writing and specifically agreed and signed on behalf of the Purchaser by a director or other person duly authorised by the Purchaser. Subject to the foregoing provisions of this Clause, nothing contained in any document issued by the Supplier (irrespective of whether same is referred to in the Purchase Order) shall in any way modify or vary these Conditions.

Upon receipt of the Purchase Order, the Supplier shall check it for discrepancies. The Supplier shall acknowledge the Purchase Order as soon as practicable after receipt. The Supplier's acceptance by acknowledgment or performance of the Purchase Order shall constitute the entire contract between Supplier and Purchaser and no representative or statements by any employee or agent not expressly stated in the Purchase Order shall be binding upon the Purchaser.

22. Disputes

If any dispute arises out of the Contract, either party shall give to the other, written notice adequately identifying the matters that are the subject of the dispute. The parties will attempt to settle the dispute by negotiations to be conducted between authorised delegates of each party within 14 days of the issue of the notice of dispute. If the authorised delegates are unable to resolve the dispute they must agree an alternative dispute resolution method within a further 7 days (for example mediation or expert determination) but not including arbitration or the commencement of legal proceedings. If the dispute is not resolved after compliance with the alternative dispute resolution method, the parties may refer the dispute to arbitration or commence legal proceedings.

23. Third Party Rights

No provision of this Agreement is intended to or does confer upon any third party any benefit or right enforceable at the option of that third party or any liability whatsoever on any third party.

24. Entirety of Agreement

The express terms of this Contract shall constitute the entire agreement between the Supplier and the Purchaser on the subject matter hereof and shall cancel and supersede all prior written or oral representations or understandings between the Supplier and the Purchaser other than as expressly included in the Contract.

25. Consequential Loss

Neither the Purchaser nor the Supplier shall be liable to the other for any Consequential Loss sustained by the other party.

26. Erection Work and Services

When erection work and services (Works) form part of the Purchase Order, the following provisions shall apply: (a) All invoices shall be accompanied by a schedule certified by the Purchaser of work completed on site. (b) Progress payments shall not be made unless stated in the Purchase Order. (c) The Supplier shall obtain within ten (10) days of receipt of the Purchase Order and keep in effect during the currency of the Purchase Order such insurance as necessary to adequately protect both the Supplier and the Purchaser in respect of liability for payment of compensation to any employee of the Supplier or sub-Supplier under law and shall lodge certificates of currency with the Purchaser.

27. US Export Control Compliance

The Supplier agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions regulations maintained by the Treasury Department's Office of Foreign Assets Control ("OFAC"), and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State.

The Supplier shall be responsible for obtaining any license required under the EAR, OFAC regulations or ITAR. The Supplier will identify in writing to the Purchaser, those items, technology, and software for which an export license is required and provide export classification and licensing information necessary for export documents, including but not limited to the appropriate Export Control Classification Number ("ECCN") from the Commerce Control List, the applicability of license exceptions, license numbers and copies of licenses. The Supplier agrees to indemnify the Purchaser for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of the Supplier's breach of this provision.

The Purchaser agrees that no item, technology, or software received from the Supplier is intended to be shipped, either directly or indirectly, to any country, company or person or for any end-use that is prohibited under the EAR, OFAC regulations or ITAR. The Purchaser agrees to indemnify the Supplier for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of the Purchaser's breach of this provision.

28. Legal Construction

Unless otherwise agreed in writing this Contract shall in all respects be construed and governed by the laws of Western Australia and subject to Clause 22 the parties agree to submit to the jurisdiction of its Courts. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

SCHEDULE 1

TERMS AND CONDITIONS FOR WORK OUTSIDE OF AUSTRALIA

If the Contract is to be performed in or relates to any location outside of Australia, this Schedule 1 shall apply to the Contract.

1. REQUIREMENTS FOR PERSONNEL

1.1 Details of Personnel

The Supplier shall comply with and provide all details as required under the Statutory Requirements to the Purchaser at least 15 days prior to the date on which any members of the Supplier's personnel are to be mobilised. This information shall include, but is not limited to, the names, passport particulars, copies of passports, copies of visas and evidence of residency status of all personnel.

1.2 Approval of Personnel

The Supplier's personnel are subject to review and approval for entrance into the overseas location by both Australian and the local authorities. Any person deemed unacceptable by such authorities shall be immediately replaced by the Supplier. No appeal by the Supplier regarding such acceptability shall be allowed. All Supplier's personnel must have in their possession their passports and other valid travel documents when travelling to or from the overseas location. The Purchaser will use reasonable endeavours to assist the Supplier to the extent possible to obtain such approvals in a timely fashion.

2. TAXATION

2.1 The Purchaser shall assume that the Supplier has a fully acquainted itself with the taxation provisions of the sovereign country in which the Works are to be performed by the Supplier and remit tax accordingly.

2.2 The Supplier indemnifies the Purchaser against any assessment of tax, plus related penalties and interest related to the Purchaser's failure to properly make and remit such tax

2.3 The Purchaser and its respective advisers make no representation or warranty in relation to the application of taxes to the Supplier for the performance of the Works

2.4 The Purchaser and its respective advisers do not represent or warrant that any information provided to the Supplier in relation to taxes is correct, complete or relevant to the Supplier or the Goods.

2.5 The Purchaser will not be liable to the Supplier as a result of the Supplier's reliance on information supplied by or on behalf of the Purchaser in relation to the application of taxes.