



Agreement for Major Supply (WA)

[insert project number and
name]

Select Georgiou Entity(Georgiou)

[Insert name of Supplier] (ABN)(Supplier)

Project Document #:

TABLE OF CONTENTS

Details 4

Agreement..... 5

General Conditions 6

1. Performance of Supply Agreement 6

2. Appointment of Representatives..... 6

3. Security 7

4. Supplier's Warranties and Indemnities 8

5. Title and risk..... 8

6. Insurance 9

7. Off-site Storage 10

8. Delivery 10

9. Access to Supply Items 11

10. Payment of Contract Sum..... 11

11. Tax 13

12. Acceptance of Supply Items 14

13. Extension of Time 15

14. Variations to Supply Item 16

15. Force Majeure 17

16. Liability 18

17. Intellectual Property..... 18

18. Assignment 19

19. Defective Work..... 19

20. Termination 20

21. Dispute Resolution 21

22. Confidentiality 22

23. Notices 23

24. Miscellaneous..... 23

25. Special Conditions 24

26. Defined Terms and Interpretation 25

END OF GENERAL CONDITIONS31

Agreement for Major Supply (WA)

Schedule 1 - Agreement Particulars	32
Schedule 2 - Special Conditions	33
1. Code Compliance	33
2. Personal Property Securities Act 2009 (Cth)	34
3. HSEQ Requirements	35
4. Other Special Conditions.....	37
Schedule 3 - Security	38
Schedule 4 - Supply Items and Specifications	39
Schedule 5 - Tender and Quotation Documents	40
Schedule 6 - Delivery Schedule.....	41
Schedule 7 - RCTI Agreement	42

Details

Form of Agreement

This Contract is made the [insert date] day of Select Month, Select Year

BETWEEN: **Select Georgiou Entity**
68 Hasler Rd, Osborne Park, Western Australia 6017
(Georgiou)

AND: **[Insert name of Supplier] (ABN [Insert ABN])**
[Insert Supplier Address]
(Supplier)

Background

- A Georgiou requires the Supply Items to be supplied for the purposes of the Project.
- B The Supplier can supply the Supply Items to Georgiou.
- C The parties have agreed to the supply and purchase of the Supply Items under the terms of this Supply Agreement.

Agreement

The Obligations of the Parties

- 1) The Supplier agrees to supply, and Georgiou agrees to pay the Supplier for, the Supply Items in accordance with this Supply Agreement.
- 2) Georgiou agrees to pay the Supplier the Contract Sum in accordance with this Supply Agreement.

The Contract Documents

The documents that comprise the Contract are:

- 1) This Form of Agreement;
- 2) The Special Conditions;
- 3) The General Conditions;
- 4) Schedules 1-7; excluding any Special Conditions
- 5) [Insert other documents e.g. the Preliminaries, Specifications, Drawings; and other documents]

Precedence

In the event of any ambiguity, discrepancy or conflict occurring between the documents that comprise this Supply Agreement, the order of precedence is as set out in The Contract Documents above, from highest to lowest.

Signed as an agreement

Signed for and on behalf of Georgiou:

In the presence of:

Signature ←

Signature of Witness ←

Name

Name of Witness

Signed for and on behalf of the Supplier:

In the presence of:

Signature ←

Signature of Witness ←

Name

Name of Witness

General Conditions

1. PERFORMANCE OF SUPPLY AGREEMENT

1.1 Performance by Supplier

- 1) The Supplier agrees to perform all of its obligations arising under this Supply Agreement in accordance with its terms for the Contract Sum.
- 2) The Supplier must supply and Deliver the Supply Items strictly in accordance with the Specifications and all Legislative Requirements.
- 3) The Supplier acknowledges and agrees that time is of the essence in the performance of the Supplier's obligations under this Supply Agreement.
- 4) The Supplier must:
 - I. carry out and complete its obligations under this Supply Agreement:
 - i) with skill, care and diligence; and
 - ii) in accordance with up-to-date best industry practice;
 - II. comply with all written instructions and directions of Georgiou in relation to the Supply Items;
 - III. make all necessary reasonable enquiries to ascertain the requirements of Georgiou regarding the Supply Items and ensure that the Supply Items comply with and are consistent with those requirements;
 - IV. promptly give written notice to Georgiou if and to the extent that the Supplier becomes aware that any document, instruction, direction or other information provided by Georgiou's Representative is ambiguous or inaccurate or is otherwise insufficient to enable the Supplier to carry out its obligations relating to the Supply Items in accordance with this Supply Agreement;
 - V. keep Georgiou informed of the progress and discharge of its obligations relating to of the Supply Items;
 - VI. at all times employ staff with appropriate qualifications and experience to carry out the Supplier's obligations relating to the Supply Items on its behalf;
 - VII. do all things necessary and necessarily incidental for the proper performance of the Supplier's obligations under this Supply Agreement;
 - VIII. provide or obtain from manufacturers, suppliers and sub-contractors for the benefit of Georgiou all warranties, guarantees or other contractual obligations for materials, equipment, or goods used for or in connection with the supply and delivery of the Supply Items which are described in this Supply Agreement or, if nothing is described, as are given by manufacturers, suppliers and their contractors in the ordinary course of business; and
 - IX. deliver the warranties, guarantees and other contractual obligations required under clause 1.1, 4)VIII to Georgiou or Georgiou's Representative as a condition precedent to receiving final payment under this Supply Agreement.

2. APPOINTMENT OF REPRESENTATIVES

2.1 Georgiou's Representative

- 1) Georgiou has appointed the party named in Item 1 of Schedule 1 - Agreement Particulars to exercise all of the functions of Georgiou under this Supply Agreement.
- 2) Georgiou may appoint a replacement representative from time to time and will keep the Supplier informed of the identity of any the replacement.

2.2 Supplier's Representative

- 1) The Supplier has appointed the party named in Item 2 of Schedule 1 - Agreement Particulars to exercise all of the functions of the Supplier under this Supply Agreement.
- 2) The Supplier may appoint a replacement representative from time to time and will keep Georgiou informed of the identity of any the replacement.

3. SECURITY

[Note to Georgiou: Georgiou to consider whether Security is required. If this clause does not apply then write in this space "NOT USED" under the SECURITY Heading and remove all security clauses below. Delete this note.]

3.1 Security for Supplier's performance

- 1) No later than fourteen (14) days after the Commencement Date, the Supplier must provide security to Georgiou for the due and proper performance of the Supplier's obligations under this Supply Agreement (Security).
- 2) The provision by the Supplier of the Security or any additional Security required under this Supply Agreement is a precondition to the Supplier's entitlement to payment under this Supply Agreement. Until the Security or any additional Security is provided in accordance with this clause, no progress payment or other payments are due from Georgiou to the Supplier.
- 3) The Security must be:
 - I. for the value of 10% of the Contract Sum; and
 - II. in substantially the same form as set out in Schedule 3.

3.2 Ownership of interest earned

Any interest earned on the Security during the Term will be retained by Georgiou.

3.3 Recourse to Security

- 1) Georgiou may have recourse to the Security if it believes (acting reasonably) that:
 - I. the Supplier has breached or failed to comply with any of its obligations under this Supply Agreement;
 - II. Georgiou is entitled to claim payment of moneys from the Supplier in relation to the work under this Supply Agreement; or
 - III. Georgiou is entitled to reimbursement of any moneys paid to or to be paid to others under or in connection with this Supply Agreement.
- 2) The Supplier will have no Claim against Georgiou for any loss or damage that it may suffer (including Consequential Loss) occasioned by recourse to the Security under this clause.
- 3) If Georgiou has recourse to the Security, then Georgiou may require the Supplier to increase the amount of the Security, so as to maintain the level of the Security available to Georgiou at the level specified in this clause.
- 4) The Supplier indemnifies Georgiou in relation to any costs (including legal costs on a full indemnity basis), loss or damage incurred as a result of defending or responding to any steps taken by the Supplier to injunct or otherwise restrain:
 - I. Georgiou from having recourse to the Security;
 - II. Georgiou from using any sum or sums received from having recourse to the Security; or
 - III. the issuer of the Security from exercising its rights or performing its obligations under the Security.

3.4 Release of Security

- 1) No later than ten (10) Business Days after Delivery and Acceptance of the last Supply Item, Georgiou must return [50%] of the Security to the Supplier.

- 2) No later than ten (10) Business Days after the expiration of the Defects Liability Period, Georgiou must return the remaining [50%] of the Security to the Supplier (if any).

[Note to Georgiou: Georgiou to consider timing and % of Security to be held. Delete this note]

4. SUPPLIER'S WARRANTIES AND INDEMNITIES

4.1 Warranties

The Supplier warrants that it has expertise in the supply of the Supply Items and that it will supply and Deliver the Supply Items so that the Supply Items will (where applicable):

- 1) be new and of good quality (unless otherwise stated in this Supply Agreement);
- 2) be in every respect fit for the purposes made known to the Supplier by Georgiou and for all purposes which an experienced supplier could reasonably expect they may be used;
- 3) be free from Defects and compliant with all relevant warranties, expressed or implied, at Law;
- 4) where an effective operating life is stated in the Specifications, have the effective operating life for the period stated
- 5) upon delivery to Georgiou, be of clear title and free of all liens, charges and other encumbrances; and
- 6) The Supplier must provide Georgiou with the manufacturer's warranties at the time each Item is delivered.

4.2 Indemnities

- 1) The Supplier is liable for and indemnifies Georgiou against any loss or damage suffered by Georgiou in connection with any act, omission, failure or breach by the Supplier, its agents, employees or subcontractors of any of the Supplier's obligations arising under this Supply Agreement.
- 2) The Supplier must indemnify, and keep indemnified, Georgiou against all claims, demands, proceedings, damages, costs, charges and expenses concerning any accident, death, illness or injury to any worker or other person in the employment of, or engaged by, the Supplier.
- 3) The Supplier must indemnify, and keep indemnified, Georgiou for any loss or damage caused by, arising out of or in connection with, any breach of a warranty given by the Supplier under clause 4.1 of this Supply Agreement including any claims by third parties.
- 4) The Supplier will not be obliged to indemnify Georgiou in respect of any Claim, loss or damage to the extent that the Claim, loss or damage is caused by:
 - I. any negligent or unlawful act or omission or wilful misconduct of Georgiou; or
 - II. a breach of this Supply Agreement by Georgiou.
- 5) Each indemnity given by the Supplier under this Supply Agreement is a continuing obligation and is separate and independent from the other obligations of the Supplier.

5. TITLE AND RISK

5.1 Title to Supply Item

- 1) Title and risk in a Supply Item will remain in the Supplier until that Supply Item has been:
 - I. delivered to; and
 - II. accepted by,
Georgiou in accordance with the terms of this Supply Agreement.
- 2) Title to a Supply Item will vest in Georgiou on the earlier of:
 - I. acceptance of that Supply Item; and
 - II. payment for that Supply Item.

6. INSURANCE

6.1 Required Insurances

- 1) The Supplier must take out and maintain at its own expense the following insurances (where applicable):
 - I. insurance for loss and damage, including loss and damage in transit, of the Supply Items;
 - II. public liability insurance; and
 - III. [insert any other insurances required by Georgiou]
(the **Supplier's Insurances**).
- 2) The Supplier's Insurances must be in the names of both the Supplier and Georgiou.

6.2 Claims

The Supplier is liable for all deductibles and excesses in respect of any claim in connection with a Supply Item under the Supplier's Insurances.

6.3 Proof of insurance

- 1) No later than ten (10) Business Days after the Commencement Date, the Supplier must provide evidence, to Georgiou's satisfaction (acting reasonably), that it has obtained the Supplier's Insurances.
- 2) The Supplier must:
 - I. no later than ten (10) Business Days after effecting the Supplier's Insurances, provide Georgiou with a copy of the policy or policies of the Supplier's Insurances for Georgiou's approval; and
 - II. when requested by Georgiou, produce documentary evidence that the Supplier's Insurances are being properly maintained.

[Note to Georgiou: Consider timing. Delete this note]

6.4 Renewal of insurances

At any time when any of the Supplier's Insurances are to be renewed the Supplier must, no later than ten (10) Business Days after effecting the renewal of the insurance policy, provide evidence to Georgiou's satisfaction (acting reasonably) that it has renewed the insurance policy to comply with its obligations to maintain insurance under this Supply Agreement.

6.5 Lapse of insurance

- 1) If any of the Supplier's Insurances lapse or are cancelled by the insurer for any reason, the Supplier must immediately notify Georgiou in writing of the lapse or cancellation.
- 2) If the Supplier:
 - I. fails to obtain, maintain or renew any of the Supplier's Insurances; or
 - II. fails to notify Georgiou in writing that any of the Supplier's Insurances have lapsed or been cancelled,then, without prejudice to any other rights and remedies which Georgiou may have under this Supply Agreement or at Law, Georgiou may obtain its own insurances.
- 3) The cost of any insurance taken out by Georgiou under 6.5, 2) will be a Debt Due by the Supplier to Georgiou.
- 4) The Supplier is not entitled to make a Payment Claim until the Debt Due arising under clause 6.5, 3) is satisfied.

7. OFF-SITE STORAGE

- 1) If the Supplier is required, directed or permitted to temporarily store a Supply Item in an Off-Site Storage Facility (**Off-Site Item**), the Supplier must insure the Off-Site Items in the names of Georgiou and the Supplier for the period of time that the Supply Item is an Off-Site Item.
- 2) The Supplier must ensure that the Off-Site Items are properly packed and crated so as to protect the Off-Site Items from damage during transit and prior to Delivery to Georgiou.
- 3) If the Supplier is required, directed or permitted by Georgiou to temporarily store any part of the Supply Items in an Off-Site Storage Facility, the Supplier may claim payment for the costs associated with the storage of those Off-Site Items provided that the Supplier has:
 - I. provided evidence to Georgiou's satisfaction (acting reasonably) that title to the Off-Site Items will vest in Georgiou upon payment; and
 - II. ensured that the Off-Site Items are:
 - i) clearly marked as the property of Georgiou;
 - ii) are securely stored in the Off-Site Storage Facility; and
 - iii) will not be removed from the Off-Site Storage Facility except for the purpose of effecting Delivery.

8. DELIVERY

8.1 General

The Supplier, at its own expense, must deliver each Supply Item on the Date for Delivery using the mode of delivery stated in Item 5 of Schedule 1 - Agreement Particulars.

8.2 Notice of Delivery

If requested by Georgiou, the Supplier must give Georgiou reasonable advance notice of the Delivery.

[Note to Georgiou: Consider timeframe for notices. Delete this note]

8.3 Access to Delivery Location

- 1) Subject to clause 8.3, 2), Georgiou must give the Supplier access to the Delivery Location (or part or parts thereof) at the times and for the periods which are reasonably necessary to enable the Supplier to comply with its obligations under this Supply Agreement.
- 2) The Supplier's access to the Delivery Location will be in common with other persons at the Delivery Location and does not amount to an exclusive licence.
- 3) The Supplier must comply with all instructions issued by Georgiou in respect of the coordination of Deliveries of the Supply Items and must comply with all industrial and safety requirements applicable to the Delivery Location.

8.4 Delay to access

- 1) Subject to clause 8.4, 2) any delay or disruption to the performance by the Supplier of its obligations under this Supply Agreement caused by Georgiou or other persons at the Delivery Location will not constitute a breach of this Supply Agreement by Georgiou.
- 2) The Supplier's sole entitlement in respect of a delay or disruption caused by Georgiou or other persons at the Delivery Location, whether under this Supply Agreement or at Law, is the right to claim an Extension of Time.
- 3) The Supplier will not be entitled to any additional payment whether as damages or otherwise if the means or route of access to the Delivery Location is altered by Georgiou or is temporarily unavailable.
- 4) If:
 - I. Georgiou requests that the Supplier provide notice to Georgiou of the Delivery under clause 8.2;
 - II. the Supplier fails to give such notice to Georgiou; and

III. the Supplier is unable to Deliver the Supply Item to Georgiou upon arriving at the Delivery Location,

then Georgiou will not be in Default under this Supply Agreement.

9. ACCESS TO SUPPLY ITEMS

9.1 Access to Supplier

The Supplier must:

- 1) give Georgiou and its nominees full access to the places where the Supply Items are being manufactured for the purpose of testing, inspection or examination of the Supply Items; and
- 2) do all things necessary to assist Georgiou and its nominees during the course of any such visit.

[Note to Georgiou: Consider whether this clause is required and whether it is likely to be commercially acceptable to third parties. Delete this note]

9.2 Access to Sub-Contractors

The Supplier must not subcontract any of its obligations under this Supply Agreement unless the subcontractors:

- 1) give Georgiou and its nominees full access to the places where the Supply Items are being manufactured for the purpose of testing, inspection or examination of the Supply Items; and
- 2) do all things necessary to assist Georgiou and its nominees during the course of any such visit.

[Note to Georgiou: Consider whether this clause is required and whether it is likely to be commercially acceptable to third parties. Delete this note]

10. PAYMENT OF CONTRACT SUM

10.1 General - Contract Sum

Except where expressly provided for in this Supply Agreement, the Supplier acknowledges and agrees that:

- 1) the Contract Sum is the sole consideration for carrying out all of its obligations under this Supply Agreement; and
- 2) the Supplier must:
 - I. carry out its obligations under this Supply Agreement including all work which can reasonably be inferred from this Supply Agreement and all costs of design, materials, packing and protection, transportation, delivery, storage, insurance, taxes, duties, royalties and other expenses of the Supplier (where applicable); and
 - II. comply with directions given by Georgiou's Representative in accordance with this Supply Agreement,

for the Contract Sum.

10.2 Payment Claim

- 1) The Supplier is entitled to submit a claim for payment (Payment Claim) in accordance with Item 6 of Schedule 1 - Agreement Particulars.

- 2) Any Payment Claim issued by the Supplier to Georgiou earlier than the date specified in Item 6 of Schedule 1 - Agreement Particulars will be deemed to have been delivered to Georgiou on the date specified in Item 6 of Schedule 1 - Agreement Particulars.
- 3) In submitting a Payment Claim the Supplier represents and warrants to Georgiou that, in relation to the Supply Item described in the Payment Claim:
 - I. it has Delivered that Supply Item;
 - II. there are no Defects in that Supply Item;
 - III. all subcontractors and employees of the Supplier have been paid all moneys due and payable to them in respect of that Supply Item; and
 - IV. the Supply Item is free and clear of all liens (other than any liens extinguished upon receipt of payment in respect of such Payment Claim).
- 4) Each Payment Claim must itemise and describe what has been supplied and contain substantiation (including documentary evidence) in sufficient detail for Georgiou's Representative to assess the claim.
- 5) If the requirements set out in clause 10.2, 3) and 10.2, 4) have been satisfied Georgiou must make payment to the Supplier for the Supply Item no later than thirty (30) days after the date the Payment Claim is submitted.

[Note to Georgiou: Consider time frame for payment. Delete this note]

10.3 Payment Certificates

- 1) Georgiou's Representative must, within 15 days after receiving a valid Progress Claim, issue to Georgiou and the Supplier:
 - I. a Progress Certificate evidencing the assessment of the moneys due from Georgiou to the Supplier pursuant to the Progress Claim and reasons for any difference; and
 - II. a Negative Certificate evidencing the assessment of moneys due from the Supplier to Georgiou pursuant to the Contract.
- 2) If the Supplier does not make a Progress Claim in accordance with Item 6 of Schedule 1 - Agreement Particulars, Georgiou's Representative may still issue a Progress Certificate and a Negative Certificate.
- 3) If Georgiou's Representative does not issue a Progress Certificate or a Negative Certificate within 15 days of receiving a valid Progress Claim, that Progress Claim will be deemed to be rejected by Georgiou's Representative. For the sake of clarity, for the purposes of determining when a payment dispute arises pursuant to Section 6 of the *Construction Contracts Act 2004* (WA):
 - I. the due date for payment is the same date as that set out in subclause 4) below; and
 - II. any deemed rejection operates to trigger a payment dispute under that Act.
- 4) Within 15 days after receiving a Progress Certificate and a Negative Certificate, Georgiou must pay to the Supplier the balance of the Progress Certificate after setting off amounts owing to Georgiou under the Contract either:
 - I. as set out in a Negative Certificate issued by Georgiou's Representative; or
 - II. otherwise pursuant to clause 10.5.
- 5) If that setting off produces a negative balance, the Supplier must pay to Georgiou the negative balance within 15 days of receiving written notice from Georgiou demanding payment.
- 6) A Progress Certificate, Negative Certificate or payment of a Progress Claim will not constitute evidence that the work under the Contract has been carried out satisfactorily.
- 7) Payment other than Final Payment will be payment on account only.

10.4 Interest

Interest at the rate set out in Item 7 of Schedule 1 - Agreement Particulars is due and payable after the date of default in payment.

10.5 Set off

In addition to its other rights under this Supply Agreement to set off or make deductions, Georgiou may elect to set off against any monies owing to the Supplier:

- 1) any costs Georgiou incurs in doing something the Supplier is required but fails on notice to do under this Supply Agreement;
- 2) any amount by which, in the reasonable opinion of Georgiou's Representative, the value of the Works is diminished as a result of the failure of the Supplier to comply with this Supply Agreement; and
- 3) any moneys due and owing by the Supplier to Georgiou otherwise than in connection with the subject matter of this Supply Agreement.

11. TAX

11.1 Goods and Services Tax (GST)

- 1) In this clause, the expressions 'adjustment note', 'consideration', 'GST', 'input tax credit', 'supply', 'tax invoice', 'recipient' and 'taxable supply' have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- 2) Unless otherwise expressly stated in the Contract, all prices or other sums payable under this Supply Agreement are exclusive of GST.
- 3) Despite any other provision in this Supply Agreement, if GST is payable by a supplier under this Contract, the recipient must pay to the supplier an amount equal to the GST payable on the supply by the supplier. Subject to receipt of a valid tax invoice, that amount must be paid at the same time that the consideration for the supply is to be provided under this Supply Agreement and will be provided in addition to the consideration expressed elsewhere in this Supply Agreement.
- 4) If this Supply Agreement requires a party to reimburse any other party for any expense, loss or outgoing (reimbursable expense) incurred by another party, the amount required to be reimbursed by the first party will be the sum of:
 - I. the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense; and
 - II. if the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply and for the avoidance of doubt, if the supply is a taxable supply, clause 11.1, 3) will apply.
- 5) If a GST inclusive price is changed or varied under this Supply Agreement, the supplier must provide the recipient of the supply a valid tax invoice or adjustment note at or before the time of payment or Variation.
- 6) If the amount of GST paid or payable by the supplier on any supply made under this Supply Agreement differs from the amount of GST paid by the recipient, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST or for any other reason, then the amount of GST paid by the recipient will be adjusted accordingly by a further payment by the recipient to the supplier or the supplier to the recipient as the case requires.
- 7) Georgiou is authorised to withhold from payments to the Supplier, a sub-supplier or a worker, such amounts as are required under the Pay As You Go (PAYG) system.
- 8) The Supplier must provide notice to Georgiou of its entitlement (or not) to claim input tax credits in respect of premiums paid for relevant insurances under this Supply Agreement as soon as practicable after the date of this Supply Agreement.
- 9) If the parties have entered into the Recipient Created Tax Invoice (RCTI) Agreement Schedule 7:
 - I. Georgiou will issue the RCTI in respect of the liability to pay in respect of such Taxable Supply;

- II. the RCTI will be issued by the Recipient on the date of determination of the value of the payment due under this Agreement in connection with a Taxable Supply;
- III. the RCTI will not be payable before the due date for payment for the Taxable Supply under the Agreement; and
- IV. where the determination of the amount payable in respect of a Taxable Supply has been made in accordance with this Agreement and Georgiou has not issued a RCTI within 28 days of that determination, the provisions of sub clause 11.1, 3) will apply to payment of that amount for that Taxable Supply, but not otherwise and will not constitute a breach of the RCTI Agreement.

11.2 Taxes Other Than GST and Duties

- 1) Unless otherwise expressly provided in this Supply Agreement, the Supplier must pay all taxes due in connection with the Supplier's performance of its obligations under this Supply Agreement.
- 2) The Supplier acknowledges and agrees that it will be liable for and has made adequate allowance in the Contract Sum for:
 - I. all taxes other than GST;
 - II. all duties including, without limitation, stamp duty, customs duty and import duty; and
 - III. all costs relating to the imposition of any new taxes, duties or the like, or a change in any of them.

11.3 Carbon Tax

In this clause, "Carbon Scheme" means the Australian Government's carbon price mechanism established by the Clean Energy Act 2011 (Cth) and associated Acts.

The Supplier Price is deemed to include all costs incurred (or to be incurred) by the Supplier in the performance of the Work under this Supply Agreement pursuant to the Carbon Scheme.

The Supplier must not make any claim (pursuant to any clause in the contract or on any other basis whatsoever) for any amount additional to the contract Price that is incurred (or is to be incurred) by the Supplier in the performance of the Work under contract pursuant to the Carbon Scheme.

12. ACCEPTANCE OF SUPPLY ITEMS

12.1 Inspection and compliance of Supply Item

- 1) Any item supplied by the Supplier must be accompanied by a notice of acceptance (Delivery Docket) which must be signed by an authorised representative of Georgiou at the point of delivery.
- 2) Georgiou will not be liable to pay for the Item unless the Delivery Docket is first signed by an authorised representative of Georgiou.
- 3) Upon delivery of the Item to the Site, Georgiou will inspect the Item and if the Item:
 - I. complies with the Specification Documents (save for minor defects which in Georgiou's opinion (acting reasonably) do not prevent the Item from being used for its intended purpose) and all Supplier Documentation (if any) and Warranties have been provided, Georgiou must sign an Delivery Docket; or
 - II. does not comply with the Specification Documents, Georgiou must notify the Supplier, giving reasons, that the Item does not comply with the Specification Documents.
- 4) Notwithstanding that the Item does not comply with the Specification Documentation, Georgiou may:
 - I. accept the item, in which case the Price shall be reduced by a sum Georgiou assesses as reasonable to correct any non-compliance; or
 - II. may accept the item and reserve its rights to have the non-compliance rectified at a later stage by the Supplier or, at Georgiou's option by a third party, in either case, at the Supplier's cost.
- 5) A signed Delivery Docket is not an admission that the Item complies with this Supply Agreement.

[Note to Georgiou: Consider inserting a timeframe around when such notice must be given and if not given within the time frame, Acceptance is deemed to have occurred. Delete this note]

6) For the avoidance of doubt, signing a delivery document does not constitute Acceptance.

12.2 Delay in Delivery

If, prior to the Date for Delivery, the Supplier is delayed so as to necessarily delay the Delivery, the Supplier may be entitled to an Extension of Time under clause 13.

12.3 Liquidated damages for failure to Deliver

If the Supplier fails to deliver a Supply Item by the date for delivery, the Supplier must pay Georgiou liquidated damages at the rate set out in Item 8 of Schedule 1 - Agreement Particulars for every day of delay from and including the date for delivery for that Supply Item until the earlier of:

- 1) the date the Supply Item is Delivered; and
- 2) termination of this Supply Agreement.

13. EXTENSION OF TIME

13.1 Entitlement to Extension of Time

- 1) Subject to clause 12.2, the Supplier will be entitled to an Extension of Time if, in Georgiou's opinion (acting reasonably):
 - I. a Delay Event occurs; and
 - II. that Delay Event directly delays the Delivery of a Supply Item.
- 2) As soon as reasonably practicable after becoming aware of the occurrence of a Delay Event, the Supplier must notify Georgiou in writing of the occurrence of that Delay Event.
- 3) The Supplier must no later than seven (7) days after first becoming aware of the occurrence of a Delay Event, give written notice to Georgiou (**Delay Notice**) specifying:
 - I. the cause of the Delay Event;
 - II. the period of delay caused or reasonably expected to be caused by the Delay Event;
 - III. the activity which was delayed by the Delay Event;
 - IV. the Supply Item which was affected by the Delay Event;
 - V. the cost implications of the Delay Event, if any; and
 - VI. the measures which the Supplier has adopted (or will adopt) to overcome or to minimise the consequences of the Delay Event.

13.2 Compliance a condition precedent

- 1) Despite any other clause in this Supply Agreement, the Supplier acknowledges and agrees that compliance with this clause 13 is a condition precedent to the Supplier's entitlement to an Extension of Time.
- 2) If the Supplier fails to give notice strictly in compliance with clause 13.1, the Supplier will not be entitled to:
 - I. claim, or to be granted, an Extension of Time; or
 - II. make any other claim in connection with the delay, whether under this Supply Agreement or at Law.

13.3 Period of Extension of Time

- 1) Subject to clause 12.2, the period of an Extension of Time in respect of a Supply Item will be equal to the period of delay.

- 2) In assessing the Supplier's claim for an Extension of Time, Georgiou's Representative may reduce the period of the Extension of Time to the extent that the Supplier:
 - I. contributed to the delay;
 - II. failed to take any steps necessary to preclude or prevent the cause of the delay; or
 - III. failed to avoid or minimise the consequences of the delay.
- 3) Even though the Supplier is not entitled to an Extension of Time, Georgiou's Representative may, at any time and in its absolute discretion, extend the Date for Delivery in respect of a Supply Item by giving the Supplier written notice of the extension.

13.4 Suspension

- 1) Georgiou may at any time direct the Supplier to suspend the supply of any or all Supply Items.
- 2) The Supplier must comply with any direction issued by Georgiou pursuant to this clause and must recommence when directed to do so by Georgiou.
- 3) The Supplier will be entitled to recover from Georgiou its reasonable costs as a direct result of complying with the suspension unless the suspension was caused or contributed to by the Supplier.

14. VARIATIONS TO SUPPLY ITEM

14.1 Variations Direction

- 1) At any time during the Term, Georgiou's Representative may direct the Supplier to:
 - I. increase, decrease, or omit the whole or any part of the Supply Items to be supplied under this Supply Agreement; and/or
 - II. vary the character or quality of any of the Supply Items,(a **Variation Direction**).
- 2) A Variation Direction must:
 - I. be in writing; and
 - II. state that the direction is a Variation Direction.
- 3) The Supplier must not vary the Supply Items except as directed in a Variation Direction.
- 4) If the Supplier varies the Supply Items in the absence of a Variation Direction, then the Supplier will not be entitled to claim any costs or an Extension of Time in relation to the varied Supply Items.

14.2 Impact of Variation Direction

- 1) No later than five (5) Business Days after receiving a Variation Direction under clause 14.1, the Supplier must give written notice to Georgiou as to:
 - I. the work required to give effect to the Variation;
 - II. the costs of carrying out the Variation; and
 - III. the effect of the Variation on the Date for Delivery.
- 2) No later than twenty (20) Business Days after the date of the Variation Notice, the parties must meet and attempt to agree the costs and time effects of carrying out the Variation (if any).
- 3) The amount payable or deductible by Georgiou in relation to the Variation to be added or deducted from the Contract Sum must be valued as follows:
 - I. an agreed amount, if the parties have agreed to the value of the Variation in accordance with this clause;
 - II. if paragraph (I) does not apply and the Contract contains provisions that specify rates for valuing work performed under the Contract, then those rates or provisions will apply; or
 - III. if subclauses (I) to (II) do not apply, an amount that is reasonable in all the circumstances having regard to the cost and the risk associated with the Variation.
- 4) If the time effects of the Variation cannot be agreed in accordance with this clause then they will be determined under clause 13.

15. FORCE MAJEURE

15.1 General

1) Force Majeure Event means:

- I. acts of terrorism;
- II. terrorism, riot, war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any government or competent authority;
- III. ionising radiation or contamination, radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazard properties of any explosive assembly or nuclear component;
- IV. strikes at State or national level or industrial disputes at a national level or strikes or industrial disputes by labour not employed by the Supplier or its subcontractors and which affect an essential portion of the work under this Supply Agreement; or
- V. earthquakes, cyclones, tsunamis, tidal waves, flood, fire or other physical natural disaster or weather conditions which are sudden, catastrophic and outside the normal range of weather conditions for the locality.

2) None of the following are a Force Majeure Event:

- I. any failure by a supplier to perform its obligations except for any failure to perform caused by a Force Majeure Event;
- II. inability to procure funds, lack of funds or inability to use funds;
- III. any circumstance or event which could have been reasonably foreseen, prevented or guarded against by the affected party;
- IV. any circumstance or event which results from a failure by the affected party to comply with the requirements of this Supply Agreement or to adopt Good Industry Practice;
- V. inclement weather; or
- VI. inability of the Supplier to procure the materials required to supply the Supply Items.

3) No event or circumstance referred to in clause 15.1, 1) will qualify as a Force Majeure Event unless the event or circumstance:

- I. is beyond the reasonable control or influence of the party affected by the event or circumstance;
- II. delays or prevents the performance by the affected party of its obligations under this Supply Agreement; and
- III. cannot be prevented, overcome or remedied by the exercise by the affected party of the standard of care and diligence consistent with good industry practice.

15.2 Affected Party not liable

A party affected by a Force Majeure Event (**Affected Party**) will not be liable to the other party (**Non-Affected Party**) for any inability to comply with its obligations under this Supply Agreement to the extent that such inability results from the Force Majeure Event.

15.3 Extension of Time for Force Majeure Event affecting Supplier

If the Supplier is interrupted in or prevented from carrying out the whole or any part of its obligations under this Supply Agreement by reason of a Force Majeure Event then the Supplier will be entitled to an Extension of Time to perform those of its obligations which are affected by the Force Majeure Event subject to the Supplier's compliance with the notice requirements set out in this Supply Agreement.

15.4 Notification

1) Upon the occurrence of a Force Majeure Event, the Affected party must notify the Non-Affected Party of:

- I. the occurrence of the Force Majeure Event;
 - II. details of the circumstances giving rise to the Force Majeure Event;
 - III. the anticipated affect of the Force Majeure Event on the Affected Party's ability to perform its obligations; and
 - IV. the steps that the Affected Party intends to take to overcome or reduce the Force Majeure Event and its effects.
- 2) Notification must be given immediately upon the Affected Party becoming aware or when it ought reasonably to have become aware that a Force Majeure Event has occurred or is likely to occur.

15.5 Mitigation

The Affected Party must take all reasonable steps to overcome or reduce the effects of the Force Majeure Event provided that neither party is required by reason of this clause to settle or resolve any strike, lockout or labour dispute on terms that it considers to be unreasonable.

15.6 No change in Contract Sum

The Affected Party will not be entitled to any additional payment on account of the Force Majeure Event or for any delay affecting the works which results from the Force Majeure Event.

16. LIABILITY

16.1 Civil Liability Act

Pursuant to section 4A of the Civil Liability Act, Part 1F (Proportionate Liability) of the Civil Liability Act is excluded from operation under or in connection with this Supply Agreement.

16.2 Liability for Indirect or Consequential Losses

Despite any other provision of this Supply Agreement, neither Georgiou nor the Supplier or any of their employees, consultants, suppliers or assigns has any liability to each other, nor will they be entitled to make any Claim, in respect of any Consequential Loss sustained as a result of any act or omission of any of them (whether negligent or otherwise) or as a result of a breach of this Supply Agreement by either of them.

17. INTELLECTUAL PROPERTY

17.1 Ownership of Intellectual Property Rights

- 1) Subject to clause 17.1, 2) the Supplier assigns to Georgiou all of its Intellectual Property Rights associated with the supply under this Supply Agreement, including those currently in existence or to be created (other than third party Intellectual Property Rights).
- 2) This Supply Agreement does not transfer to Georgiou any Intellectual Property Rights in the Supplier's pre-existing Intellectual Property.

17.2 Warranty

Unless otherwise stated, the Supplier represents and warrants that, where applicable, it owns the Intellectual Property Rights in all Supply Items and other things used by the Supplier in connection with the supply under this Supply Agreement.

17.3 Licence

The Supplier grants Georgiou a perpetual, fully paid-up, non-exclusive, transferable licence to use and reproduce, to the extent required, any of the Supplier's pre-existing Intellectual Property Rights associated with the Supply Items for the installation, use, support, repair, maintenance or alteration of the supply under this Supply Agreement by or on behalf of Georgiou.

17.4 Warranty for Infringement

If a third party claims that the Supplier's pre-existing Intellectual Property Rights infringe their Intellectual Property Rights:

- 1) the Supplier must indemnify Georgiou against any loss or damage that Georgiou may directly or indirectly sustain or incur because of the Claim (including legal costs incurred on a full indemnity basis); and
- 2) Georgiou must give any assistance required by the Supplier to defend the Claim at the Supplier's expense, and allow the Supplier to take full control over any proceedings and negotiations conducted in relation to the Claim.

18. ASSIGNMENT

- 1) The Supplier must not, without the written consent of Georgiou's Representative:
 - I. assign this Supply Agreement or any payment under this Supply Agreement or any interest in this Supply Agreement or in such payment; or
 - II. materially change the shareholding or beneficial ownership of the Supplier.
- 2) Georgiou may, upon written notice to the Supplier, assign its rights and entitlements under the Contract, including to the Principal or its nominee.

18.1 Assignment on Determination of Head Contract

If any Head Contract is terminated at the option of the Principal, the Supplier consents to assign the benefit of this Supply Agreement to the Principal without being entitled to compensation. The Supplier agrees that any such assignment will operate to release and discharge Georgiou from any obligation or liability under this Supply Agreement. The Supplier must obtain a similar consent from any supplier under a supply agreement relating to this Supply Agreement.

18.2 Novation of Supply Agreement

- 1) Georgiou's Representative may, exercising an absolute discretion and at any time after the execution of this Supply Agreement require the Supplier, at no cost to Georgiou or the New Contractor, to execute a deed of novation (**Deed of Novation**) in a form determined by Georgiou's Representative whereby:
 - I. Georgiou, the Supplier and the New Contractor are parties to the Deed of Novation;
 - II. Georgiou and the Supplier terminate this Supply Agreement upon the execution of the Deed of Novation;
 - III. the Supplier and the New Contractor agree that they will enter into a new supply agreement on the same terms and conditions as this Supply Agreement, except that:
 - i) the New Contractor will be named instead of Georgiou ; and
 - ii) the obligations of the Supplier and the New Contractor will be as if the New Contractor had executed this Supply Agreement instead of Georgiou;
 - IV. after termination of this Supply Agreement, Georgiou will have no further obligation to the Supplier in connection with the work under this Supply Agreement; and
 - V. the Supplier will remain liable to Georgiou in respect of the performance of the work under this Supply Agreement up to the date of termination of this Supply Agreement.
- 2) In addition to these provisions, the Deed of Novation must include such provisions as Georgiou's Representative may reasonably require. The Supplier hereby irrevocably appoints Georgiou as the Supplier's attorney for the purpose of executing on the Supplier's part the Deed of Novation as contemplated by this clause.

19. DEFECTIVE WORK

19.1 Supplier liable for Defects

The Supplier is liable for the cost of replacing or rectifying any Defects in respect of a Supply Item until the expiration of the Defects Liability Period.

19.2 Rectification Direction

- 1) If at any time Georgiou's Representative discovers any Supply Item provided by the Supplier is not in accordance with this Supply Agreement, Georgiou's Representative may direct the Supplier to:
 - I. not deliver the Supply Item to the Delivery Location;
 - II. remove the Supply Item from the Delivery Location; or
 - III. replace or correct the Supply Item, **(Rectification Direction)**
- 2) A Rectification Direction must include the Rectification Period.
- 3) The Supplier must replace or rectify the defective Supply Item in accordance with the Rectification Direction at its own cost and risk.
- 4) If the Supplier fails to comply with a Rectification Direction within the Rectification Period, then Georgiou may:
 - I. replace or rectify the Defect; or
 - II. have the Defect replaced or rectified by others,the costs of which will be a Debt Due by the Supplier to Georgiou.

20. TERMINATION

20.1 Supplier's Default

- 1) If the Supplier commits a Default under this Supply Agreement then, without limiting any other rights of Georgiou, Georgiou's Representative may issue a notice to the Supplier **(Default Notice)**.
- 2) A Default Notice must:
 - I. state that it is a notice under this clause;
 - II. specify the Default upon which it is based; and
 - III. specify the time within which the Default must be rectified, which must be no less than ten (10) Business Days in the case of a Performance Default and five (5) Business Days in the case of a Financial Default.

20.2 Termination by Georgiou for Default of Supplier

- 1) If the Supplier fails to remedy a Default to Georgiou's satisfaction (acting reasonably) within the time prescribed in a Default Notice, Georgiou may:
 - I. suspend payment of any monies owing under this Supply Agreement;
 - II. remove the remaining Supply Items (if any) from Schedule 4 (whether or not those items are the subject of the Supplier's breach); and
 - III. terminate this Supply Agreement.
- 2) Any costs incurred by Georgiou under a Default Notice will be a Debt Due from the Supplier to Georgiou.
- 3) If the Supplier's Default causes Georgiou to engage supervision in excess of what would have been required if the Supplier had not committed the Default, or causes Georgiou to engage other preventive measures, then any costs incurred by Georgiou will be a Debt Due from the Supplier to Georgiou.
- 4) Georgiou's rights under this clause 20 are without prejudice to any other rights and remedies Georgiou may have under this Supply Agreement or at Law.

20.3 Termination for convenience

- 1) Subject to clause 20.3, 2) Georgiou may, for its convenience and in its sole and absolute discretion, elect to terminate this Supply Agreement.
- 2) If Georgiou elects to terminate this Supply Agreement under clause 20.3, 1), then Georgiou must provide the Supplier with a notice of the election to terminate (Termination Election Notice) no

earlier than fourteen (14) days prior to the nominated date of termination (**Effective Date of Termination**).

- 3) On and from the Effective Date of Termination, the Supplier must:
 - I. subject to clause 20.2, immediately cease performance of its obligations under this Supply Agreement;
 - II. immediately take all possible action to mitigate any liabilities incurred by it as a result of such termination; and
 - III. take any other action reasonably required by Georgiou in relation to the termination.
- 4) No later than five (5) Business Days after the Effective Date of Termination, the Supplier must:
 - I. provide Georgiou with a detailed report in such form as Georgiou may require in relation to the work performed up to and including the Effective Date of Termination;
 - II. return to Georgiou any items issued to the Supplier by Georgiou during the Term of this Supply Agreement; and
 - III. take any other action relating to the termination of this Supply Agreement as Georgiou may reasonably require.
- 5) No later than seven (7) days after the Effective Date of Termination, the Supplier must submit a Payment Claim for the value of the work performed prior to the Effective Date of Termination.
- 6) If Georgiou elects to terminate this Supply Agreement under clause 20.3, Georgiou must pay the Supplier:
 - I. for Supply Items delivered and Accepted before the Effective Date of Termination, the amount which would have been payable if this Supply Agreement had not been terminated and the Supplier had submitted an invoice for the Supply Items delivered and Accepted at the date of termination; and
 - II. the reasonable cost of goods or materials reasonably ordered by the Supplier for the Supply Items for which the Supplier is legally obliged to make payment to the Supplier, provided that:
 - i) the value of the goods or materials is not included in clause 20.3, 5) above; and
 - ii) the title in the goods or materials will vest in Georgiou on payment

[Note to Georgiou: Georgiou to consider if there are other grounds for payment to the Supplier upon termination for convenience. Delete this note]

- 7) The Supplier expressly undertakes not to seek or claim, and waives any entitlement to, any amount for Consequential Loss or damage arising out of, or in any way connected with, the termination of this Supply Agreement under clause 20.3.

20.4 Insolvency

- 1) Either party may immediately terminate this Supply Agreement if an Insolvency Event involving the other party occurs.
- 2) The consequences of a termination for an Insolvency Event will be the same as if this Supply Agreement had been repudiated at common law.

21. DISPUTE RESOLUTION

21.1 Notice of Dispute

If a Dispute arises between Georgiou and the Supplier in respect of any fact, act, matter or thing in connection with this Supply Agreement, then either party may give the other party a written notice of dispute identifying the Dispute (Dispute Notice).

21.2 Negotiation

No later than fourteen (14) days after a party receives Dispute Notice, Georgiou's Representative and the Supplier's Representative and/or their delegates must meet and attempt to resolve the Dispute in good faith.

21.3 Senior Executive meeting

If within fourteen (14) days of the meeting between Georgiou's Representative and the Supplier's Representative and/or their delegates the Dispute is not resolved, either party may require, by Notice to the other party no later than seven (7) days after the expiration of the fourteen (14) day period stated above, that the Dispute be the subject of a good faith negotiation at a meeting of the Senior Executives of each party.

21.4 Mediation

- 1) If within fourteen (14) days of the meeting between Georgiou's Senior Executive and the Supplier's Senior Executive the Dispute is not resolved, either party may provide a mediation notice to the other proposing three mediators who would be suitable to mediate the Dispute in Perth, Western Australia.
- 2) A mediator must then be selected as follows:
 - I. by agreement; or
 - II. if the parties cannot agree on a mediator within seven (7) days of the mediation notice being issued, then either party may request the President of the Institute of Arbitrators and Mediators (WA Chapter) (IAMA) to appoint a mediator. In making that appointment, the President of IAMA need not appoint any of the mediators proposed by the parties.
- 3) Except as modified by this clause, the mediation will be conducted in accordance with the IAMA Mediation and Conciliation Rules, current at the time the dispute is referred to mediation.

21.5 Litigation

- 1) If within fourteen (14) days of a mediation held in accordance with this clause the Dispute is still not resolved then either party may proceed to litigation.
- 2) Nothing in this clause 21.5 prevents a party from seeking urgent interlocutory relief or commencing proceedings where there is a statutory right to do so.

21.6 Security of Payment Legislation

- 1) For the purposes of the Security of Payment Legislation in the jurisdiction of the Works the parties appoint as prescribed the Institute of Arbitrators and Mediators Australia.
- 2) The Supplier must promptly give Georgiou a copy of any notice it receives from a sub-contractor under the Act.
- 3) If Georgiou becomes aware that any subcontractor is entitled to suspend work under the Act, Georgiou may pay the subcontractor any money that is or may be owing to the subcontractor for work forming part of the work under this Supply Agreement, and any amount paid by Georgiou is recoverable from the Supplier as a Debt Due to Georgiou.

22. CONFIDENTIALITY

- 1) The Supplier:
 - I. may use Confidential Information only for the purposes of this Supply Agreement; and
 - II. must keep confidential, all Confidential Information, except:
 - i) as otherwise provided by this Supply Agreement; or
 - ii) to the extent, if any, to which the Supplier is required by law to disclose any Confidential Information.
- 2) The Supplier may disclose Confidential Information to persons who:
 - I. have a need to know for the purposes of this Supply Agreement, to the extent that those persons need to know; and
 - II. prior to disclosure:
 - i) in the case of the Supplier's employees, have been directed by the Supplier to keep confidential all Confidential Information; and

- ii) in the case of any other persons approved by Georgiou's Representative, those persons have agreed in writing with the Supplier to comply with the same obligations in respect of Confidential Information as those imposed on the Supplier under this Supply Agreement.
- 3) The Supplier must:
 - I. ensure that each person to whom it discloses Confidential Information complies with its obligations to keep the Confidential Information confidential; and
 - II. notify Georgiou of, and take all steps to prevent or to stop, a suspected or actual breach of confidentiality by any person to whom the Supplier has disclosed Confidential Information.
 - 4) If the Supplier is required by Law to disclose Confidential Information to a third person, the Supplier must first:
 - I. notify Georgiou that the Supplier is obliged to disclose the Confidential Information;
 - II. give Georgiou a reasonable opportunity to take any steps that it considers necessary to protect the confidentiality of the Confidential Information; and
 - III. notify the third person that the information is the Confidential Information of Georgiou.
 - 5) If Georgiou considers that the Supplier or any person involved in the performance of the Supplier's obligations under this Supply Agreement is disclosing, or has disclosed, Confidential Information in breach of this clause, Georgiou may, by written notice to the Supplier, require the Supplier to return all documents and materials containing or based upon the Confidential Information.
 - 6) Upon receipt of such a notice, the Supplier must immediately return to Georgiou, all such documents and materials, including the documents or materials provided to third parties.

23. NOTICES

- 1) A notice, demand, consent, approval or communication under this Supply Agreement (Notice) must be:
 - I. in writing;
 - II. signed by a person duly authorised by the sender; and
 - III. hand delivered, sent by prepaid post or facsimile to the recipient's address for Notices set in Item 10 of Schedule 1 - Agreement Particulars.
- 2) A Notice given under this Supply Agreement will take effect when it is received (or at any later time specified in the Notice). A Notice is taken to be received:
 - I. if hand delivered, upon delivery;
 - II. if sent by prepaid post:
 - i) within the Perth Metropolitan area, on the second Business Day after the date of posting; or
 - ii) to (or from) outside of the Perth Metropolitan area, on the seventh Business Day after the date of posting;
 - III. if sent by facsimile transmission, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice;
 - IV. if sent by electronic mail, when the sender receives a read receipt.
- 3) If the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, then the Notice is taken to be received at 9.00am on the next Business Day.
- 4) A party may change its address for service of Notices at any time by giving a Notice to the other party.

24. MISCELLANEOUS

24.1 Georgiou may act

- 1) Notwithstanding any other provision of this Supply Agreement, Georgiou may, without prior notice to the Supplier, either by itself or by a third party, carry out any obligation under this Supply

Agreement which the Supplier was obliged to carry out but which it failed to carry out within the time required in accordance with this Supply Agreement.

- 2) Any costs incurred by Georgiou under clause 24.1, 1) are recoverable as a Debt Due from the Supplier to Georgiou.

24.2 Entire Agreement

- 1) This Supply Agreement constitutes the entire agreement between the parties and supersedes all previous negotiations and communications.
- 2) There are no other oral or implied understandings, terms or conditions and neither party has relied upon any representation, express or implied, not contained in this Supply Agreement.

24.3 Amendment

An amendment of this Supply Agreement must be in writing and signed by the parties.

24.4 Discretions, Determinations, Approvals or Assessments

If this Supply Agreement allows Georgiou or Georgiou's Representative a discretion as to whether to do or not do any act, matter or thing of any kind or confers on Georgiou or Georgiou's Representative a power of determination or right of opinion approval or the like, that discretion, power or right is absolute unless this Supply Agreement states otherwise.

24.5 Waiver

- 1) No party to this Supply Agreement may rely on the words or Conduct of any other party as a Waiver of any Right unless the Waiver is in writing and signed by the party granting the Waiver.
- 2) In this clause:
 - I. **Conduct** includes delay in the exercise of a right or failure to exercise a right under this Supply Agreement;
 - II. **Right** means any right arising under or in connection with this Supply Agreement and includes the right to right to rely on this clause;
 - III. **Waiver** includes an election between rights and remedies and conduct which might otherwise give rise to an estoppel whether by way of representation or convention.

24.6 Governing Law

This Supply Agreement is subject to and is to be construed in accordance with the laws of Western Australia and the parties submit to the non-exclusive jurisdiction of the Courts of Western Australia.

24.7 Severability

The parties agree that if part or all of any provision of this Supply Agreement is illegal or unenforceable it may be severed from this Supply Agreement and the remaining provisions of this Supply Agreement will continue in force.

24.8 Costs of Contract

- 1) Each party must bear its own costs of an incidental to the preparation and execution of this Supply Agreement.
- 2) The Supplier must pay all stamp duties or other taxes of a similar nature on this Supply Agreement.

24.9 Counterparts

- 1) This Supply Agreement may be executed in any number of counterparts.
- 2) All counterparts, taken together, constitute one instrument.
- 3) A party may execute this Supply Agreement by signing any counterpart.

25. SPECIAL CONDITIONS

The parties agree that the Special Conditions are part of this Supply Agreement.

26. DEFINED TERMS AND INTERPRETATION

26.1 Defined terms

In this document:

Acceptance has the meaning given in clause 12.1, 6).

Affected Party has the meaning given in clause 12.2.

Business Day means any day other than:

- 1) a Saturday, Sunday or a public holiday (at the location of the Delivery Location); and
- 2) 27, 28, 29, 30 or 31 December.

Civil Liability Act means the Civil Liability Act 2002 (WA)

Claim means any claim for:

- 1) an extension of time within which the Supplier must Deliver the Supply Items under this Supply Agreement, or perform any obligation under or in connection with this Supply Agreement;
- 2) a declaration or order to the effect that the prevention principle applies or that time is at large under this Supply Agreement;
- 3) adjustment to the Contract Sum or any other consideration payable by Georgiou for work under this Supply Agreement;
- 4) recovery of any costs, loss, damages, liabilities, expenses or other amounts of any kind arising:
 - I. under this Supply Agreement;
 - II. out of or in connection with the work under this Supply Agreement;
 - III. to the extent permitted by Law, under any Legislative Requirement; or
- 5) relief from any of the Supplier's obligations or liabilities under this Supply Agreement,

whether under this Supply Agreement or otherwise at Law or in equity (including under statute, in tort (including negligence), quantum meruit, unjust enrichment or restitution).

Commencement Date means the date stated in Item 11 of Schedule 1 - Agreement Particulars and if no date is stated in Item 11 of Schedule 1 - Agreement Particulars, the date this Supply Agreement is executed.

Conduct has the meaning given in clause 24.5, 2).

Confidential Information means:

- 1) the following information, regardless of its form and whether the Supplier becomes aware of it before or after the Date for Delivery:
 - I. all information relating to the work under this Supply Agreement that concerns the technical or commercial know-how or systems, procedures, business, finances, plans, pricing, trade suppliers, construction methodology, construction techniques, construction planning, design,

personnel, products, services, quotations, commercial feasibility, time, cost, demand projections, sizing, marketing, finance, income, public relations, client user group information, customer details, legal aspects or leasing arrangements; and

- II. all other information treated by Georgiou as confidential;
- 2) all notes and other records prepared by the Supplier based on or incorporating information referred to in subclause 1) above; and
 - 3) all copies of the information, notes and other records referred to in subclauses (1) or (2) above, except information:
 - I. the Supplier creates (whether alone or jointly with any third person) independently of Georgiou which is not related in any way to this Supply Agreement; or
 - II. that is public knowledge (otherwise than as a result of a breach of confidentiality by the Supplier or any of its permitted discloses).

Contract Sum means the sum stated in Item 13 of the Agreement Particulars as adjusted in accordance with this Supply Agreement.

Consequential Loss means any loss or damage arising from a breach of contract, in tort (including negligence), in law, equity or under statute including, without limitation, loss of use, loss of profit, loss of production, loss of business, loss of opportunity, loss of chance, loss of goodwill, loss of business reputation, loss of access to markets or market share and liabilities to third parties.

Date for Delivery means in relation to a Supply Item, the date or dates specified in Schedule 6 for Delivery of that Supply Item as extended under clause 13 (if applicable).

Debt Due means any amounts recoverable from the Supplier by Georgiou under this Supply Agreement.

Deed of Novation has the meaning given in clause 18.2, 1).

Default means a breach by a party of its obligations under this Supply Agreement and includes a Financial Default and Performance Default.

Default Notice has the meaning given in clause 20.1, 1).

Defect means:

- 1) any defect, fault, deficiency or omission in design, materials, workmanship or otherwise in respect of the work performed under this Supply Agreement;
- 2) any non-compliance with this Supply Agreement; or
- 3) any work to be performed under this Supply Agreement which is not executed or performed in accordance with this Supply Agreement (including materials provided or to be provided by the Supplier),

and **Defective** has a corresponding meaning.

Defects Liability Period means the period specified in Item 14 of Schedule 1 - Agreement Particulars.

Delay Event means:

- 1) any act or omission by Georgiou's Representative, Georgiou or its consultants, agents or other suppliers (not being employed by the Supplier);
- 2) any breach of this Supply Agreement by Georgiou or Georgiou's Representative;
- 3) any Variations directed by Georgiou's Representative under clause 14 of this Supply Agreement;
- 4) any Force Majeure Event; or
- 5) any nationwide or state wide industrial dispute not directed exclusively at the Supplier and which was not due to an act or omission of the Supplier.

Delay Notice has the meaning given in clause 13.3(3).

Deliver means supply to Georgiou at the Delivery Location and **Delivered** and **Delivery** have a corresponding meaning.

Delivery Location means the place or places specified in Item 15 of Schedule 1 - Agreement Particulars.

Dispute means any dispute or disagreement which is in any way connected with, or arises out of or in relation to, this Supply Agreement (including the interpretation or termination of this Supply Agreement), whether or not that dispute arises before or after the Expiry Date.

Dispute Notice has the meaning given in clause 21.1.

Effective Date of Termination has the meaning given in clause 20.3, 2) .

Expiry Date means the date set out in Item 12 of Schedule 1 - Agreement Particulars.

Extension of Time means an extension to the dates for delivery of the Supply Items set out in Schedule 6 of this Supply Agreement, as prescribed by clause 13.

Financial Default means the failure to pay moneys due under this Supply Agreement.

Force Majeure Event has the meaning given in clause 15.1, 1).

Georgiou's Representative means the person named in Item 1 of Schedule 1 - Agreement Particulars, , and in responding to the Supplier under the Security of Payment Legislation in the jurisdiction of the Works, Georgiou's Representative also acts as the agent of Georgiou.'

Guidelines means the Guidelines referred to in clause 1 of the Special Conditions.

Head Contract means the contract named in Item 3 of Schedule 1 - Agreement Particulars.

IAMA has the meaning given in clause 21.4, 2)

Insolvency Event means:

- 1) A party informs the other in writing, or creditors generally, that the party is insolvent or is financially unable to proceed with this Supply Agreement;
- 2) A writ of execution, instalment order, garnishee order, mareva injunction or similar order or process is made, levied or issued against the party or in relation to any assets of the party;
- 3) Being an individual person or a partnership:

- I. judgment is entered against him or her in any court of any jurisdiction;
 - II. an act of bankruptcy is committed;
 - III. a bankruptcy petition is presented against him or her or his or her own petition is presented;
 - IV. bankruptcy is declared;
 - V. a proposal for a scheme of arrangement or a composition with creditors is made; or
 - VI. deed of assignment or deed of arrangement has been made, a composition is accepted, a debtor's petition is required to be presented, or a sequestration order has been made, under Part X of the Bankruptcy Act 1966 (Cth) or like provision under the law governing this Supply Agreement;
- 4) Being a corporation:
- I. notice is given of a meeting of creditors with a view to the corporation entering a deed of company arrangement;
 - II. a controller, voluntary administrator, deed administrator, receiver, manager, receiver and manager, trustee, provisional liquidator or liquidator is appointed to the corporation or any asset of the corporation;
 - III. any receiver, manager or receiver and manager is appointed by a court to the corporation or any asset of the corporation;
 - IV. as a result of operation of Section 459C of the Corporations Act 2001 (Cth), the corporation is presumed to be insolvent;
 - V. at a meeting of creditors, the creditors resolves for the corporation to be wound up;
 - VI. at a meeting of creditors, the creditors resolves for the corporation to enter into a deed of company arrangement with its creditors;
 - VII. an application is made to a court for its winding up;
 - VIII. a winding up order is made in respect of the corporation;
 - IX. it resolves by special resolution that it be wound up voluntarily;
 - X. a mortgagee of any of its property takes possession of that property;
 - XI. an application is made to a court in relation to:
 - i) any compromise or arrangement between the corporation, its holding corporation, its subsidiaries and the creditors of the corporation, its holding corporation, its subsidiaries; or
 - ii) any scheme for reconstruction or amalgamation of the corporation and its holding corporation or subsidiaries,
- pursuant to Part 5.1 of the *Corporations Act 2001* (Cth).
- XII. any act is done or event occurs which under the laws from time to time of a country other than Australia has an analogous or similar effect to any of the events set out above.

Intellectual Property means any and all proprietary information and Intellectual Property Rights in any form, whether tangible or intangible.

Intellectual Property Right means any patent, design, trademark or name, copyright or moral rights whether registered or not registered.

Law means any statute, ordinance, code, clause, by-law, local law, official directive, order, instrument, undertaking, obligation or applicable judicial, administrative or regulatory decree, judgement or order and includes the terms and conditions of any licence, permit, consent, certificate, authority or approval or any assurance or bond or similar requirements including all applicable standards and obligations under the common law.

Legislative Requirement includes:

- 1) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth and the State or Territory in which the work performed under this Supply Agreement (or any part thereof) is being carried out;
- 2) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of the supply under this Supply Agreement; and
- 3) fees and charges payable in connection with the foregoing.

Negative Certificate means a certificate issued by Georgiou's Representative under clause 10.3, 1)II evidencing Georgiou's Representative's assessment of moneys due from the Supplier to the Georgiou pursuant to this Supply Agreement.

New Contractor means a party who will replace Georgiou under a novation in accordance with clause 18.2

Non-Affected Party has the meaning given in clause 15.4, 2).

Non-Specification Notice has the meaning given in clause 12.1,2).

Notice of dispute has the meaning given in clause 21, 1).

Off-Site Item has the meaning given in clause 7, 1)

Off-Site Storage Facility means a storage facility that is:

- 1) not located at the Delivery Location; and
- 2) is approved by Georgiou.

Payment Claim has the meaning given in clause 10.2.

Performance Default means a circumstance where the Supplier:

- 1) commits a Default of this Supply Agreement that is not a Financial Default; or
- 2) refuses or fails to comply with any Notice issued under this Supply Agreement.

Principal means the person named in Item 4 of Schedule 1 - Agreement Particulars.

Progress Certificate means a progress certificate issued by Georgiou's Representative under Clause 10.31) evidencing his or her assessment of the moneys due from Georgiou to the Supplier pursuant to a Progress Claim and reasons for any difference.

Project means the project stated in Item 16 of Schedule 1 - Agreement Particulars.

Recipient Created Tax Invoice (RCTI) means an agreement made between Georgiou and the Supplier that the Supplier will be paid in accordance with clause 11.1, 9)

Rectification Direction has the meaning given in clause 19.2, 1).

Rectification Period means the period specified in Item 17 of Schedule 1 - Agreement Particulars.

Related Entity has the meaning given in the Guidelines.

Security has the meaning given in clause 3.1, 1)

Security of Payment Legislation means the Construction Contracts Act 2004(WA)

Senior Executive means, in respect of each of Georgiou and the Supplier, the persons named in Item 9 of Schedule 1 - Agreement Particulars.

Specifications means in respect of each Supply Item, the specifications set out in Schedule 4.

Special Conditions means the terms and conditions contained in Schedule 2.

Supplier's Insurances has the meaning given in clause 6.1.

Supplier's Representative means the person named in Item 2 of Schedule 1 - Agreement Particulars.

Supply Agreement means this Supply Agreement, including the supplementary Head Contract Documents.

Supply Item means the goods, materials, services or items to be supplied under this Supply Agreement and which are listed in Schedule 4.

Term means the period:

- 1) commencing on the Commencement Date; and
- 2) ending on the Expiry Date.

Termination Election Notice has the meaning given in clause 20.3, 2).

Variation means any variation to the supply of the Supply Items that is the subject of a Variation Direction.

Variation Direction means a direction issued by Georgiou's Representative under clause 14.1, 1) in respect of a Variation and containing the requirements as set out in clause 14.1, 2).

Waiver has the meaning given in clause 24.5, 2).

26.2 Interpretation

In this Contract, unless the context otherwise requires references to:

- 1) a party includes the party's successors and assigns;

Agreement for Major Supply (WA)

- 2) anything includes part of that thing;
- 3) persons include companies, associations, firms, authorities and bodies corporate;
- 4) gender includes all other genders;
- 5) a document includes the document as changed or replaced from time to time;
- 6) currencies mean Australian currencies;
- 7) a party, where the party is more than one person, means all of them together and each of them separately;
- 8) a clause or schedule or recital refers to a clause or schedule or recital in this Agreement;
- 9) statute, regulation, code or standard includes a reference to it as amended from time to time; and
- 10) a day refers to the period commencing at midnight and ending 24 hours later;
- 11) Interpretation must not be affected by the fact that one party put forward any part of this Supply Agreement;
- 12) invalidity of any provision of the Agreement must not affect the validity of any other provision except to the extent made necessary by the invalidity;
- 13) the singular includes the plural and the other way around;
- 14) headings do not affect the meaning of this Supply Agreement;
- 15) if a word or phrase is defined, any variation of that word or phrase has the same meaning to the extent possible;
- 16) a reference to 'a party' or 'parties' is a reference to a party or the parties to this Supply Agreement;
- 17) a reference to 'indemnify' means that the person giving the indemnity will indemnify and keep indemnified the person given the indemnity against any loss, damage, claims, actions, demands, costs or expenses suffered or sustained because of the event indemnified against. This means that if the person indemnified suffers any loss or must pay any money (whether or not it is actually paid) because of an indemnified event the party giving that indemnity must pay the amount of loss or the amount of liability to the indemnified party. If it does not, the indemnified party can recover the amount as a debt due;
- 18) a debt due becomes due and payable at the time specified in this Supply Agreement, or if no time is specified, it is payable on demand;
- 19) if there is any inconsistency between a clause of this Supply Agreement and a provision of a Schedule, the clause of this Supply Agreement will prevail;
- 20) if anything to be done under this Supply Agreement falls on a day which is not a working day, then it must be done on the next working day;
- 21) where examples of a general term are given (whether or not using words such as 'includes' or 'including'), the use of the examples is without limitation to the general term and otherwise 'includes' or 'including' means includes or including without limitation; and
- 22) where a plan or drawing is a reference to the plan or drawing in its proper scale.

26.3 Headings

Headings are for ease of reference only and do not affect interpretation.

END OF GENERAL CONDITIONS

Schedule 1- Agreement Particulars

Item 1:Georgiou's Representative	[Insert name]
Item 2:Supplier's Representative	[Insert name]
Item 3:Head Contract	[Insert name]
Item 4:Principal	[Insert name]
Item 5:Mode of Delivery	[Insert]
Item 6:Submission of Payment Claims	<p>Payment Claim are to be submitted:</p> <ol style="list-style-type: none"> 1) on [Insert date];or 2) at the following stages of supply*: <ol style="list-style-type: none"> I. fabrication II. acceptance testing;and III. delivery <p>*Delete whichever is not applicable. Delete this note.</p>
Item 7: Interest rate applicable	[Insert]
Item 8:Liquidated Damages	[\$[Insert amount]per day
Item 9:Senior Executives	<p>Georgiou: [Insert name]</p> <p>Supplier: [Insert name]</p>
Item 10:Notices (clause 23)	<p>Georgiou</p> <p>Address: [Insert]</p> <p>Facsimile: [Insert]</p> <p>Email: [Insert]</p> <p>Supplier</p> <p>Address: [Insert]</p> <p>Facsimile: [Insert]</p> <p>Email: [Insert]</p>
Item 11:Commencement Date	[Insert date]
Item 12:Expiry Date	[Insert date]
Item 13:Contract Sum	<p>[\$[Insert total sum payable by Georgiou to the Supplier]exclusive of GST, calculated as set out in Schedule 4 (which schedule shall be used for the purposes of valuing Progress Claims and variations).</p>
Item 14:Defects Liability Period	[Insert if not standard 12 months]
Item 15:Delivery Location	[Insert]
Item 16:Project	[Insert]
Item 17:Rectification Period	[Insert]

Schedule 2- Special Conditions

1. CODE COMPLIANCE

- 1) The Supplier must comply with the National Code of Practice for the Construction Industry (Code) and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, August 2009 (Guidelines). Copies of the Code and Guidelines are available at deewr.gov.au/building.
- 2) Compliance with the Code and Guidelines shall not relieve the Supplier from responsibility to perform this Supply Agreement, or from liability for any defect in the Works arising from compliance with the Code and Guidelines.
- 3) Where a change in this Supply Agreement is proposed and that change would affect compliance with the Code and Guidelines, the Supplier must submit a report to Georgiou and the Commonwealth specifying the extent to which the Supplier's compliance with the Code and Guidelines will be affected.
- 4) The Supplier must maintain adequate records of the compliance with the Code and Guidelines by:
 - I. the Supplier;
 - II. its subcontractors;
 - III. consultants; and
 - IV. its Related Entities.
- 5) If the Supplier does not comply with the requirements of the Code or the Guidelines in the performance of this Supply Agreement such that a sanction is applied by the Minister for Employment and Workplace Relations, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by the Supplier or a Related Entity in respect of work funded by the Commonwealth or its agencies.
- 6) While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing tenders, the Supplier may give preference to subcontractors and consultants that have a demonstrated commitment to:
 - I. adding and/or retaining trainees and apprentices;
 - II. increasing the participation of women in all aspects of the industry; or
 - III. promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
- 7) The Supplier must not appoint a subcontractor or consultant in relation to the Project where:
 - I. the appointment would breach a sanction imposed by the Minister for Employment and Workplace Relations; or
 - II. The Subcontractor or consultant has had a judicial decision against them relating to employee entitlements, not including decisions under appeal, and has not paid the claim.
- 8) The Supplier must, and must ensure its subcontractors, consultants, employees and its Related Entities undertaking work on the Project, provide the Australian Government or any person authorised by the Australian Government, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, with access to:
 - I. inspect any work, material, machinery, appliance, article or facility;
 - II. inspect and copy any record relevant to the Project and Works subject of this Supply Agreement;
 - III. interview any person; and

- IV. request a party to this Supply Agreement to produce a specified document within a specified period in person, by fax or by post, as necessary to allow validation of its progress in complying with the Code and Guidelines.
- 9) Additionally, the Supplier agrees that the Supplier and its Related Entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, to produce a specified document within a specified period, in person, by fax or by post.
- 10) The Supplier must ensure that all contracts impose obligations on subcontractors and consultants equivalent to the obligations under this clause.
- 11) The Supplier shall when raising purchase orders or minor contracts of \$25,000 or less must include the following clause within any purchase orders:

"The National Code of Practice for the Construction Industry (the Code) and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, reissued August 2009 (or if a later version applies, then refer to the later version) (the Guidelines), apply to this project. By agreeing to undertake the works, you will be taken to have read and to agree to comply with the Code and Guidelines."
- 12) The Supplier must, and must ensure that its subcontractors, consultants and employees undertaking work on the Project, notify the Code Monitoring Group Secretariat of any alleged breaches, voluntary remedial action taken or other Code related matters within 21 days of becoming aware of the alleged breach.

2. PERSONAL PROPERTY SECURITIES ACT 2009 (CTH)

- 1) The words 'Accession', 'Commingled', 'Financing Statement', 'Grantor', 'Personal Property', 'Proceeds', 'Security Interest' and 'Verification Statement' have the meanings given to them in the Personal Property Securities Act 2009 (Cth) (PPSA).
- 2) The parties acknowledge that this Supply Agreement may constitute a Security Interest in favour of Georgiou.
- 3) If Georgiou determines that this Supply Agreement (or a transaction in connection with it, including any Supply Items) is or contains a Security Interest, the Supplier agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which Georgiou asks and considers necessary for the purposes of:
 - I. ensuring that the Security Interest is enforceable, perfected and otherwise effective;
 - II. enabling Georgiou to apply for any registration, complete any Financing Statement or give any notification, in connection with the Security Interest; or
 - III. enabling Georgiou to exercise rights in connection with the Security Interest.
- 4) Georgiou is not required to give any notice under the PPSA (including notice of a Verification Statement) unless the notice is required by the PPSA to be given (even though the parties have waived the right to receive notice).
- 5) The Supplier must notify Georgiou as soon as the Supplier becomes aware of any of the following:
 - I. if any Personal Property which does not form part of Georgiou's Personal Property becomes an Accession to Georgiou's Personal Property and is subject to a Security Interest in favour of a third party;
 - II. if any of Georgiou's Personal Property is located or situated outside Australia or, upon request by Georgiou, of the present location or situation of any of Georgiou's Personal Property; or
 - III. if the Supplier parts with possession of Georgiou's Personal Property.
- 6) The Supplier must not:
 - I. create any Security Interest or lien over any Personal Property that Georgiou has an interest in (other than Security Interests granted in favour of Georgiou);

- II. sell, lease or dispose of its interest in Personal Property that Georgiou has an Security Interest in;
 - III. give possession of the Supplier's Personal Property that Georgiou has a Security Interest or Georgiou's Personal Property to another person except where Georgiou expressly authorises it to do so;
 - IV. permit any of Georgiou's Personal Property to become an Accession to or Commingled with any asset that is not part of the Supply Items or any land not under Georgiou's ownership or control; or
 - V. change its name without first giving Georgiou 15 Business Days' notice of the new name or relocate its principal place of business outside Australia or change its place of registration or incorporation.
- 7) Everything the Supplier is required to do under this clause is at the Supplier's expense.
 - 8) Neither Georgiou nor the Supplier will disclose information of the kind mentioned in section 275(1) of the PPSA and the Supplier will not authorise, and will ensure that no other party authorises, the disclosure of such information. This clause does not prevent disclosure where such disclosure is required under section 275 of the PPSA because of the operation of section 275(7) (b), (d) and (e) of the PPSA.'

3. HSEQ REQUIREMENTS

While working on or in connection with a Georgiou worksite the supplier is required to work in accordance with Georgiou systems and processes. The Supplier is responsible for ensuring any other party engaged to supply on behalf of the Supplier in connection with this contract are made aware of and work in accordance with the Georgiou systems and processes.

1) Personal Protective Equipment (PPE)

The minimum personal protective equipment on a Georgiou construction site shall be:

- Hard hat
- Safety boots with non slip soles and toe protection; persons working on uneven and soft surfaces, e.g. civil construction sites, shall be required to wear lace-up safety boots
- High visibility vest (if shirt /jacket is not high visibility)
- Safety glasses
- Site personnel shall be expected to carry in their possession, at all times, suitable protective gloves for the job they are performing
- Long sleeve shirts
- Trousers
- UV protected eyewear
- Sunscreen lotion

2) Induction

Where work is of a continuous nature then the Supplier Representative may be required to undertake the Project/Facility site specific HSEQ induction prior to accessing the site at their cost. If it is deemed that the Supplier Representative is not required to attend a site induction then they shall be accompanied on site at all times. It is recommended that persons requiring induction contact the site to make arrangement prior to attending site.

3) Training and Competency

The Supplier is responsible for providing suitably qualified and competent persons to perform their contracted tasks. If the supplier has attended the site induction and will access the site unsupervised they shall be required to hold a Construction Safety Awareness card and carry it on their person at all times.

4) Supplier Plant & Equipment Requirements

All plant and equipment brought to site by the Supplier shall:

- Be fit for purpose
- Undergo a compliance inspection prior to commencement. Georgiou's GC-HSE-FRM016 Site Plant/Equipment Compliance Checklist may be completed and submitted as evidence of this requirement
- Be appropriately insured and evidence of current insurances including and not limited to motor vehicle, workers compensation and public liability insurance be made available on request
- Have an operator's manual relevant to the item of plant and which is to be kept with the plant
- Undergo and record daily maintenance inspections
- Be serviced as per the manufacturer's specification. Georgiou's GC-HSE-FRM057 Subcontractor Service Report may be completed and submitted as evidence of this requirement
- Have any defects identified promptly repaired. Non-compliant Plant/Equipment that poses a risk to Health or Safety will be tagged with an Out of Service tag or removed from site
- In regard to electrical equipment, be tagged by a licensed person using the National colour coding system
- In regard to lifting equipment, be tagged with a current Safe Working Load

The Supplier shall be able to provide Georgiou upon request documented evidence that the above requirements have been met.

5) Pre-starts Meetings

Where work is of a continuous nature then the Supplier Representatives must attend the morning pre-start at the designated site start time. If unable to attend at the designated time the Supplier Representative is to read the pre-start meeting minutes and sign on to the attendance sheet as evidence that these have been read and understood.

In all other instances the Supplier Representatives will be required to report to the Georgiou site office and contact the site supervisor.

6) Toolbox Meetings

Supplier Representatives shall attend the Project's/Facility toolbox meetings as requested by Georgiou.

7) HSEQ Management Meetings

The Supplier shall provide a representative to attend the Project's/Facility monthly HSEQ Management Meeting as requested by Georgiou.

8) Risk/ Hazard Management

The Supplier Representative shall be required to complete Take 5 as directed by site management in accordance with GC-HSE-ST016 Risk and Operational Control Standard and report hazards when identified.

9) Incident Reporting & Investigation Procedures

The Supplier Representative shall report all incidents and injuries immediately to Georgiou Management and shall be required to participate in incident investigations where that incident occurs in their area of work.

10) Hazardous and Dangerous Substances

Agreement for Major Supply (WA)

Supplier owned or controlled hazardous and dangerous substances shall be registered on site. Suppliers shall only bring hazardous or dangerous substances onto site if they have:

- Been authorised by the site's management to do so
- Provided the Georgiou site a copy of a Material Safety Data Sheet (MSDS) for the substance
- Provided the Georgiou site with the volume/ quantity of the substance
- An appropriate storage facility available for the storage of the substance
- Completed a risk assessment on the use of the substance, which may be done as part of the JHA

11) Emergency Response

Supplier Representative's will be required to participate, on the day, in any on site emergency response drills. The site management shall inform them of any drills to be conducted and their required participation.

12) Fitness for Work

- The Supplier shall ensure their personnel present themselves in a fit and healthy state at all times for the duties they are required to perform
- The Supplier shall provide any medical information to Georgiou in regard to their personnel entering a Georgiou site that may impede their ability to perform their work, or place themselves or others at risk or should be known in the event of an emergency
- The Supplier Representative shall abide by Georgiou's 0% Breath Alcohol limit when on site and shall consent to testing to verify compliance as required. Personnel recording a positive result to testing shall be removed from site at the Suppliers expense. Personnel who return a positive test shall not be allowed to return to site without the Project/Facility Manager's consent.
- The Suppliers personnel shall not enter a Georgiou site under the influence of illegal drugs or substances and shall consent to testing to verify compliance as required. Personnel recording a positive result to testing shall be removed from site at the Suppliers expense. Personnel who return a positive test shall not be allowed to return to site without the Project/Facility Manager's consent.

13) No Supplier personnel shall possess, use, consume, distribute or sell alcohol, illicit or non-prescribed drugs or misuse prescribed medication while on a Georgiou site.

14) Workplace Inspections and Audits

The Supplier shall be required to participate in workplace inspections and audits as requested by Georgiou. The Supplier also agrees that they may be subject to a Georgiou Audit conducted on their business as requested by Georgiou.

4. OTHER SPECIAL CONDITIONS

[Insert other Special Conditions as applicable. Delete this note]

Schedule 3 - Security

At the request of [Insert name of Supplier] (ABN [Insert])(Supplier) and in consideration of Select Georgiou Entity (Georgiou) accepting this undertaking in respect of the contract for [Insert], [Insert name of Financial Institution] (Financial Institution) unconditionally undertakes to pay on demand any sum or sums which may from time to time be demanded by Georgiou to a maximum aggregate sum of \$[Insert amount in figures and words].

The undertaking is to continue until notification has been received from Georgiou that the sum is no longer required by Georgiou or until this undertaking is returned to the Financial Institution or until payment to Georgiou by the Financial Institution of the whole of the sum or such part as Georgiou may require.

Should the Financial Institution be notified in writing, to be co-signed by an authorised officer of Georgiou and an authorised officer as nominated by [Insert name of Supplier] (ABN [Insert])(Supplier) that payment is to be made of the whole or any part or parts of the sum, it is unconditionally agreed that the Financial Institution will make the payment or payments to Georgiou within 14 days of receiving the signed notice.

Provided always that the Financial Institution may at any time after receiving written notice be required to pay to Georgiou the sum of \$ [Insert amount in figures and words] less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required and agreed between Georgiou and [Insert name of Supplier] (ABN [Insert])(Supplier) thereupon the liability of the Financial Institution hereunder shall immediately cease.

Dated this [insert date] day of Select Month, Select Year.

Schedule 4- Supply Items and Specifications

[Insert Schedule or write in this space "NOT USED" Delete this note]

Schedule 5 - Tender and Quotation Documents

[Insert Schedule or write in this space "NOT USED" Delete this note]

Schedule 6 - Delivery Schedule

[Insert Schedule or write in this space "NOT USED" Delete this note]

Agreement for major supply (WA)

Schedule 7- RCTI Agreement

Name of Supplier:

Address:

Definitions

ABN	Australian Business Number
Agreement	
Georgiou	Select Georgiou Entity
Supplies (Supply)	Has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999

I/We agree to the following:

- 1) Georgiou will issue RCTI's in respect of all Supplies provided by the Supplier;
- 2) the Supplier will not issue tax invoices in respect of the Supplies;
- 3) the Supplier acknowledges that it is registered for GST when it enters into the agreement and that it will notify Georgiou if it ceases to be registered or fails to register;
- 4) Georgiou acknowledges that it is registered for GST, and that it will notify the Supplier if it ceases to be registered for GST or if it ceases to satisfy any of the requirements for raising RCTI's under taxation legislation or rulings ("RCTI Requirements");
- 5) Georgiou will not issue a document that would otherwise be an RCTI, on or after the date when Georgiou or the Supplier has failed to comply with any of the RCTI Requirements;
 - I. The Supplier acknowledges that Georgiou is not obliged to and will not issue an RCTI in respect of a Supply until:
 - II. a Payment Schedule has been issued and Georgiou is obligated to pay an amount to the Supplier under clause 10.2 of the Agreement;
 - III. the Supplier has provided the necessary documentation to allow an RCTI to be raised.
- 6) The Supplier's ABN is
- 7) Georgiou may at its sole discretion, by written notice to the Supply, terminate this agreement and from the date of the notice of termination the Supplier will be responsible for issuing any and all tax invoices in respect of Supplies to Georgiou.
- 8) The Supplier shall be liable for and indemnifies Georgiou against any cost, expense, loss or damage that Georgiou and / or the Supplier may incur or suffer as a result of or in any way relating to termination of this agreement.

Note: Under this RCTI system the Supplier must NOT submit tax invoices or they will be rejected without payment. Suppliers must only submit progress claims in the format specified. All tax invoices will be returned UNPAID.

SIGNED as an agreement

Agreement for major supply (WA)

Signed for and on behalf of Georgiou:

In the presence of:

←
Signature

←
Signature of Witness

Name

Name of Witness

Signed for and on behalf of the Supplier:

In the presence of:

←
Signature

←
Signature of Witness

Name

Name of Witness