PURCHASE ORDER TERMS AND CONDITIONS
(LABOUR SUPPLY)

PIC, including its subsidiary DTE, agrees to purchase Services from the Supplier, who agrees to supply them on these Terms and Conditions. Unless the context requires otherwise, all references to "PIC" include DTE.

1. CONTRACT DOCUMENTS

The following documents (in the following order of precedence) constitute a legally binding contract between PIC and the Supplier and set out the terms and conditions of the purchase of the Services:

(a) the Purchase Order;

(b) the Special Conditions attached as Attachment D to the Purchase Order;

(c) the Conditions;

(d) the scope of Services attached as Attachment A to the Purchase Order;

(e) the invoicing schedule attached as Attachment B to the Purchase Order; and

(f) the program attached as Attachment C to the Purchase Order.

2. PRECEDENCE

2.1 In the event of any inconsistency between any of the terms of the Contract documents referred to in clause 1 the terms of the Contract document which is higher in precedence shall prevail.

2.2 The documents forming the Contract are to be taken as mutually explanatory of one another.

3. CONTRACT AND RELATIONSHIP

3.1 The Contract comes into existence on the issue of the Purchase Order or PIC instructing the Supplier to supply the Services, irrespective of whether the Supplier returns a signed copy of the Purchase Order to PIC or expressly confirms its agreement of these Conditions.

3.2 To the extent the Supplier's terms and conditions are supplied to PIC, including with Goods or as printed on consignment notes or other documents (including quotations), those terms and conditions will be of no legal effect and will not constitute part of the Contract even if any of PIC's personnel signs those terms and conditions or annexes the terms and conditions to the Contract.

3.3 The Parties acknowledge that the Supplier is engaged as an independent contractor and nothing in this Contract creates any relationship of employment, agency, partnership or joint venture.

4. THE SERVICES

4.1 The quantity, quality and description of the Services are as stated in the Contract documents.

4.2 The Supplier must supply the Services in accordance with, and as specified in, the Contract.

4.3 The Supplier must supply all equipment and items necessary for the performance of the Services, including but not limited to those items set out in the scope of Services.

4.4 PIC must supply those services and items set out in the scope of Services.

4.5 Services (and any associated deliverables) are subject to inspection, testing and written acceptance by PIC.

No payment shall be due unless and until PIC confirms acceptance in writing. Acceptance shall not relieve the Supplier of any warranty or performance obligations.

5. TIME FOR PERFORMANCE

5.1 Time is of the essence in respect of all obligations of the Supplier under the Contract.

5.2 The Supplier must supply the Services in accordance with the Delivery Dates, until the expiry of termination of the Contract.

5.3 The Supplier must immediately report to PIC any actual or likely delay in supply of the Services and its cause. The Supplier must take all reasonable steps to prevent delay.

5.4 If the parties agree to change the scope of any of the Services, the Price and any change to the Delivery Dates will also be varied as agreed.

6. INDUSTRIAL RELATIONS

6.1 The Supplier shall be responsible for:

(a) managing its own industrial relations to ensure there is harmony among workers and no delay to supply of the Services;

(b) resolving all industrial actions, industrial disputes and industrial matters in relation to its own

Personnel;

(c) consulting and co-operating with PIC and other contractors to PIC in relation to industrial issues; and

(d) complying with any lawful directions given by PIC or a Site Representative in relation to industrial matters.

6.2 If the Supplier breaches any industrial relations obligation and such breach causes delay, disruption, or additional cost to PIC, the Supplier must indemnify PIC for any related loss or expense. PIC may also withhold payment until the breach is remedied to its satisfaction.

7. INSPECTION AND SAMPLING

7.1 The Supplier must conduct all inspections and tests in strict accordance with requirements of the Purchase Order.

7.2 The Supplier must ensure that PIC has the opportunity to inspect, test, and witness any test of the Services wherever they may be located. The Supplier must provide or ensure that its suppliers provide unrestricted access to reasonable facilities necessary for PIC to carry out such inspections or witness such tests.

7.3 PIC must be entitled to reject Services that do not comply with the requirements of the Contract.

8. TECHNICAL MATERIAL

The Supplier must, without additional cost to PIC, supply all required plans, drawings, specifications, manuals, certificates, instructions, fabrication reports and the like in the form and at the times and in the numbers of copies specified in the Purchase Order or otherwise as reasonably required by PIC.

9. SUSPENSION OF SERVICES

9.1 The Supplier must suspend the whole or any part of the Services on receipt of notice from PIC to do so.

9.2 Upon receipt of notice of suspension the Supplier must immediately take all possible action to mitigate any costs incurred by it as a result of the suspension;

9.3 The suspension shall not vitiate the Subcontract.

9.4 PIC shall pay to the Supplier all reasonable expenses and costs arising from suspension of the Services, unless the suspension is:

(a) of a continuous duration of less than 24 hours; or

(b) due directly or indirectly to the breach of the Contract by the Supplier or any act or omission by the Supplier not authorised by the Contract.

9.5 PIC shall, when the reason for any suspension no longer exists, give notice to the Supplier to recommence the relevant Services and the Supplier shall comply with the notice promptly.

10. TERMINATION

10.1 In addition to its rights under clause 16, PIC may terminate all or any part of the Contract at any time for any reason, in its sole and absolute discretion by written notice of termination to the Supplier.

10.2 Upon receipt of notice of cancellation the Supplier must:

(a) immediately cease performance of the Services to the extent specified in the termination notice;

(b) immediately take all possible action to mitigate any costs incurred by it as a result of the termination;

(c) provide PIC with a detailed report in the form required by PIC in relation to the Services supplied prior to termination.

10.3 In the event of termination by PIC under this clause the Supplier is entitled to:

(a) payment for Services (not comprising Goods) supplied and Goods delivered to PIC prior to termination but not already paid for; and

(b) demobilisation costs.

10.4 the Supplier is not entitled to the Price or to any other compensation arising out of the cancellation other than as specified in this clause, including loss of profit or recovery of overheads.

11. PRICE

11.1 The price for the Services is the price stated in the Purchase Order. Unless otherwise agreed and clearly stated in the Purchase Order the price stated on the Purchase Order excludes GST but includes any other applicable taxes, customs, excise and import duties, tariffs, fees, levies, charges, costs or expenses incurred by the Supplier, including transport, packing and insurance costs.

11.2 To the extent that PIC is required to reimburse the Supplier for costs incurred by the Supplier, those costs do not include any amount in respect of GST for which the Supplier is entitled to claim an Input Tax Credit under the GST Act.

11.3 To the extent that any Consideration (as defined in the GST Act) payable to the Supplier under the Contract is determined by reference to another amount, the GST exclusive amount of the other amount shall be used.

11.4 The Supplier is responsible for all remuneration and benefits for its Personnel (including but not limited to superannuation contributions, annual leave, sick leave, long service leave, overtime, penalty rates, work care levies, group tax, payroll tax, fringe benefits tax, superannuation guarantee charges and other taxes or levies imposed by law, and termination payments), and acknowledges that the Price includes all such remuneration and benefits.

11.5 Unless otherwise agreed and clearly stated in the Purchase Order the Price is fixed and firm and not subject to adjustment due to currency fluctuation or any other reason.

12. PAYMENT

12.1 The Supplier must submit to PIC valid tax invoices in accordance with the invoicing schedule stated in the Purchase Order or if no schedule is stated, on a monthly basis. Each such invoice must be:

(a) correctly dated;

(b) refer to the Purchase Order;

(c) where relevant, refer to the particular Services supplied; and

(d) state that it is submitted under the Security of Payment Act.

12.2 Compliance by the Supplier with clause 12.1 is a condition precedent to the Supplier's entitlement to claim the amount stated in an invoice submitted by the Supplier to PIC.

12.3 If the Supplier submits an invoice earlier than the time for submission of that invoice set out in the invoicing schedule, the Supplier agrees that the invoice shall not be taken to have been submitted until that time.

12.4 Save to the extent provided for in an invoicing schedule in the Purchase Order, PIC must not be liable to pay for the Services until the Services have been supplied in accordance with, and as specified in, the Contract.

1.1 If PIC requests, the Supplier must provide PIC with all relevant records to calculate and verify the amount set out in any Supplier invoice including signed timesheets, receipts, or other supporting documentation.

12.5 Subject to clause 12.2 and clause 12.6, PIC shall pay the Supplier the amount assessed by PIC as payable within the time stated in the Purchase Order, or if no time is stated, within 25 Business Days.

12.6 If PIC disputes any amount claimed in an invoice, PIC shall make a determination of the amount payable and within 15 Business Days after receiving the invoice provide a progress certificate to the Supplier:

(a) identifying the invoice to which the certificate relates;

(b) stating that determination, including, for each item of the invoice:

(i) the amount which is not disputed and therefore payable; and

(ii) if applicable, the amount which is disputed and the reason(s) it is disputed.

12.7 Without limiting clause 12.6, PIC may issue a revised progress certificate at any time correcting any omission or error discovered in any previous progress certificate issued by it, including as a result of the provision of information under clause 1.1.

12.8 PIC is not obliged to approve any invoice which is not submitted in accordance with the Contract, and may withhold approval and money due to the Supplier under the Contract if the Services do not comply with the Contract.

12.9 PIC may deduct from moneys due to the Supplier any money due from the Supplier to PIC otherwise than under the Contract.

12.10 Payment to the Supplier is on account only and does not constitute approval of the Services or any other matter or thing in respect of which payment is made.

13. SUPPLY OF SERVICES

13.1 The Supplier must obtain all necessary permits and licenses which must be obtained in Supplier's name and are necessary for Supplier to perform its obligations under the Contract.

13.2 The Supplier must, in providing the Services:

(a) not interfere with PIC's activities or the activities of any third party at the Site; and

(b) comply with, and ensure that its Personnel comply with all lawful directions and orders given by or on behalf of PIC at the Site.

13.3 If the Supplier fails to perform or delays performance of the Services and fails to rectify such default within 5 Business Days of receiving notice from PIC, PIC may (but is not obliged to), without waiving any other rights, perform or procure the performance of the Services at the Supplier's cost.

All costs incurred by PIC in exercising this right shall be a debt due from the Supplier and may be deducted from any amount otherwise payable under the Contract.

14. WARRANTIES

14.1 The Supplier represents and warrants that:

(a) the Services will be supplied in an

efficient manner in accordance with all Legislative Requirements;

(b) the Services strictly comply with the scope of Services and the requirements of the Contract;

(c) the Services are free from all Defects;

(d) the Services will not infringe any third party IP Rights;

(e) the Supplier will, and ensure its Personnel will, exercise the standards of diligence, due care and skill normally exercised by a prudent and similarly qualified and competent supplier supplying equivalent services;

(f) the Services are fit for the purpose for which services of the same kind are commonly supplied and for any other purpose described in the Contract documents;

(g) all Personnel are appropriately qualified., competent and skilled to perform the relevant part of the Services in respect of which they are engaged; and

(h) any equipment used on-Site by the Supplier will be in a safe working condition and comply with all Legislative Requirements and be operated by suitably qualified and competent Personnel.

14.2 The Supplier must immediately rectify or replace at PIC's option and at Supplier's sole cost any Defective Services discovered within 15 months after supply or 12 months after the Services are first used or enter into the service for which they are purchased, whichever occurs first.

14.3 If PIC reasonably considers that it is necessary to immediately rectify or replace Defective Services then PIC is not obliged to give the Supplier an opportunity to rectify or replace such Services before PIC does so or causes a third party to do so. The Supplier must reimburse PIC for the full cost of such replacement or rectification.

14.4 The Supplier's obligation to replace or rectify Defective Services is cumulative of other remedies available to PIC.

14.5 The Supplier must ensure that PIC has the full benefit of any manufacturer's warranties that may be applicable to the Services and the Supplier must pursue any manufacturer's warranties on PIC's behalf if PIC requests.

14.6 If the Supplier has replaced or rectified Defective Services, the rectified or replacement Services must be subject to the same warranty period as the original Services, from the date of rectification or replacement.

14.7 If PIC elects to accept Defective Services, such election does not bind PIC to accept any other Defective Services and does not affect any of PIC's other rights under the Contract in respect of those Replacement Services.

14.8 PIC may assign any or all of the above warranties to any of its clients or related companies and the Supplier consents to such assignment.

15. LIABILITY AND INDEMNITY

15.1 The Supplier is liable for, indemnifies and will indemnify and keep PIC indemnified against all Loss, and hereby releases and will release PIC from any Action arising directly or indirectly from any breach of any warranty or obligation of the Supplier under the Contract, except to the extent caused or contributed to by any wrongful act or omission of PIC.

15.2 If any loss of or damage to works at the Site is caused by the Supplier or its Personnel, the Supplier must at its cost rectify such loss or damage.

15.3 PIC's total aggregate liability to the Supplier under or in connection with the Contract shall not exceed the amount of any unpaid portion of the Price for Services properly performed.

PIC shall not be liable for any indirect, consequential, incidental or special losses, including loss of profit, revenue, opportunity, goodwill or anticipated savings, even if advised of the possibility of such loss.

16. DEFAULT AND TERMINATION

16.1 To the extent permitted by law, the Contract may be terminated by PIC immediately at any time for any reason, in PIC's sole and absolute discretion, on giving written notice of termination to the Supplier if the Supplier:

(a) fails to remedy any breach of its obligations under the Contract within 7 days after receiving written notice from PIC requiring it to do so;

(b) is unable to pay its debts when they fall due;

(c) ceases to hold any licence, qualification, approval, authority or consent required to supply the Services;

(d) threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvent administration;

(e) enters into any negotiations for any arrangement or composition with its creditors;

(f) being a company, goes into

liquidation, whether voluntary or compulsory, or has a receiver or receiver and manager or administrator appointed, or an application is made for PIC to be wound up;

(g) being an individual, has a trustee in bankruptcy appointed;

(h) ceases or threatens to cease to carry on business; or

(i) assigns or subcontracts the Contract or any part of the Supplier's obligations under the Contract without the prior written consent of PIC,

in which case PIC's liability to the Supplier must be limited to payment of the Price for Services supplied prior to such termination.

16.2 Termination of the Contract does not affect or prejudice any rights of PIC which have accrued prior to the termination. PIC's exercise of its rights under this clause does not affect or limit its ability to exercise any other rights under the Contract, at law or in equity.

17. INSURANCE

17.1 The Supplier must for as long as it has obligations outstanding in connection with the supply of the Services, effect and maintain:

(a) Workers' Compensation insurance in accordance with all applicable legislation;

(b) Public Liability Insurance with a limit of not less than $20,000,000 per occurrence and in the aggregate;

(c) Motor Vehicle Liability Insurance (for all vehicles used in connection with the Services) with a limit of not less than $20,000,000 per occurrence;

(d) [Optional, if relevant] Professional Indemnity Insurance with a limit of not less than $5,000,000 per claim and in the aggregate, maintained for at least 6 years following completion of the Services;

(e) [Optional, if relevant] Product Liability Insurance covering any supplied goods with a limit of not less than $10,000,000;.

17.2 Each policy of insurance effected by the Supplier in accordance with this clause must:

(a) name PIC as an insured party;

(b) include a cross-liability clause providing that where there is more than one insured and a claim is made, all insuring agreements must operate as if there were a separate insurance for each insured;

(c) waive all express or implied rights of subrogation against PIC and its directors, officers and employees; and

(d) include a clause that provides that non-disclosure, misrepresentation or a breach of a conditional term by one insured does not adversely affect the cover provided to any other insured.

17.3 The Supplier must notify PIC immediately if any incident occurs that is likely to give rise to a claim under any policy of insurance effected under this clause, or if any claim is made.

17.4 If PIC notifies the Supplier that PIC has effected any policy of insurance which covers the Supplier, the Supplier must comply with the terms of that policy of insurance. The Supplier must, upon request, provide to PIC evidence satisfactory to PIC of such insurance to PIC. Compliance by the Supplier with this clause is a condition precedent to the Supplier being entitled to:

(a) access to the Site;

(b) make a claim for payment for the supply of the Services; or

(c) payment for the supply of the Services.

18. PERSONNEL

18.1 PIC may object to any Personnel who, in PIC's reasonable opinion, does not have the appropriate qualifications, competency or skill to perform the relevant part of the Services in respect of which they are engaged or who engages in misconduct. The Supplier must remove and immediately replace such Personnel with a suitable replacement upon being directed to do so by PIC.

18.2 The Supplier must not subcontract any part of the Services without PIC's prior written consent. The Supplier must provide details of each proposed subcontractor including name, ABN, scope of work, and insurance details. PIC may reject or require replacement of any subcontractor it deems unsuitable in its sole discretion.

19. SITE

19.1 This clause 19 applies to the extent the Supplier or Personnel are required to be on or in the vicinity of the Site.

19.2 The Supplier must:

(a) comply, and ensure its Personnel complies, with all Legislative Requirements, the conditions of any exploration or mining tenements relevant to the Site, and all approvals, policies, standards, rules and procedures in force from time to time,

including in relation to HSE;

(b) comply, and ensure its Personnel complies, with all lawful directions by PIC and any Site Representative;

(c) submit and amend any HSE management plan(s) as reasonably required by PIC;

(d) attend all induction courses as reasonably required by PIC;

(e) maintain true and accurate records including computer print-outs, personnel books, correspondence, instructions, plans, drawings, receipts, time sheets, invoices and memoranda in relation to the Services during the performance of the Services and for a period of at least 5 years after the expiry or termination of this Contract;

(f) permit PIC to have access to the Supplier's premises, documentation, data and Personnel as necessary to enable PIC to verify, monitor and audit the Supplier's compliance with this clause 19;

(g) permit PIC and any others persons nominated by PIC to have access to the areas of the Site where the Supplier is performing the Services; and

(h) give PIC not less than 7 days prior written notice before commencing Services on the Site.

19.3 The Supplier acknowledges that it must not have exclusive possession of any part of the Site and must only be granted access to the Site to the extent necessary for the performance of the Services. The Supplier must cooperate with other contractors and persons on the Site and coordinate its work with them.

20. FUEL

20.1 If the Supplier uses any fuel which it owns in the performance of its obligations under this Contract, the Supplier must ensure that:

(a) it does all things necessary to claim a Fuel Tax Credit in relation to the fuel including, without limitation, being registered for the purposes of claiming such credit;

(b) at the earliest possible opportunity, it claims a Fuel Tax Credit in relation to the fuel, to the extent of its entitlement to such credit;

(c) the value of any Fuel Tax Credit to which it is entitled is either reflected in the consideration payable by PIC to the Supplier under this Contract or an amount equal to that value is paid to PIC within 7 days of receipt of such credit;

(d) it maintains detailed records of the quantity of fuel used and the manner in which it is used, and must provide those records to PIC within 7 days of being requested to do so by PIC; and

(e) if it sub-contracts any of the Services to another person, that other person undertakes the same obligations as those in paragraphs (a)-(d) to the Supplier, and that the Supplier passes on to PIC the value of the benefit it receives.

21. SECURITY OF PAYMENT

21.1 The parties agree that for the purposes of any adjudication under the Security of Payment Act in relation to the Contract or the Services:

(a) the prescribed appointor shall be Resolution Institute;

(b) the amount set out in a certificate given by PIC under clause 12.6 is the amount of the 'progress payment' calculated in accordance with the terms of the Contract to which the Supplier is entitled; and

(c) the date under clause 12.1 on which the Supplier must claim payment is the 'reference date'.

22. INTELLECTUAL PROPERTY

22.1 The Supplier warrants that any design, equipment, methods of working and documentation including but not limited to specifications, drawings, reports and publications used or produced by the Supplier in connection with the Services shall not infringe any Intellectual Property.

22.2 The Supplier acknowledges and agrees that:

(a) nothing in this Contract grants it any Intellectual Property or other rights in Discoveries;

(b) Intellectual Property in all Contract IP vests exclusively in PIC;

(c) Intellectual Property in all Discoveries arising as a result of the provision of the Services or otherwise will vest exclusively in PIC; and

(d) the Supplier will execute and ensure that all Personnel execute all documents that are necessary or desirable to ensure that all Discoveries and Intellectual Property rights in them become and remain vested in PIC.

22.3 PIC grants to the Supplier a non-exclusive, non-transferable, revocable, royalty-free

licence to use the Discoveries and the Intellectual Property in them during the term of this Contract solely as reasonably required to perform the Works.

22.4 The Supplier grants to PIC a perpetual, irrevocable, non-exclusive, worldwide, transferable, royalty-free licence to exercise the Supplier IP as necessary for PIC to enjoy the benefit of the Services for the purposes of PIC's business and the business of the Related Bodies Corporate of PIC and any other parties nominated by PIC. This licence includes the right to sublicense any Supplier IP to:

(a) any Related Body Corporate of PIC or assignee of assets of PIC or any Related Body Corporate of PIC;

(b) any third parties engaged by PIC or any Related Body Corporate of PIC, for the purpose of providing services to PIC to any Related Body Corporate of PIC; or

(c) any third party to whom PIC or any Related Body Corporate of PIC provides services from time to time.

22.5 The Supplier must:

(a) promptly disclose all Discoveries to PIC;

(b) ensure that any sub-contract that the Supplier enters into in relation to this Contract contains an assignment by the sub-contractor to PIC (or to the Supplier, so as to permit the Supplier to assign to PIC) of all Contract IP created by the sub-contractor;

(c) provide, and ensure its Personnel provide, all reasonable assistance PIC may request to protect, perfect, enforce, defend or assert its interests and right to use and exploit the Contract IP (including assisting PIC to take action against persons infringing the Contract IP); and

(d) upon request from PIC, obtain from each of its Personnel an irrevocable and unconditional consent, in favour of PIC, its customers, successors and assigns (which is legally enforceable by PIC) for PIC to perform any act or do anything which, but for that consent, would infringe the moral rights of that Personnel.

22.6 The Supplier indemnifies PIC for all loss and expense incurred as a result of a breach of this clause.

23. APPORTIONMENT LEGISLATION

23.1 For the purposes of this clause:

(a) "Apportionment Legislation" means any legislation under which an apportionment may be made, including but not limited to the *Civil Liability Act 2002* (WA); and

(b) "apportionment" includes an apportionment of liability for damages, a limit on the amount of damages that may be awarded against a party or a determination of or judgment for the proportion of any damages which should be borne by a party.

23.2 The Parties agree that, to the extent not prohibited by law, the Supplier indemnifies PIC against any claim, demand, loss, expense or liability whatsoever arising out of or in connection with the Contract which is caused or contributed to by any Personnel of the Supplier and for which the Supplier would have been liable to PIC but for, or which PIC is not able to recover from the Supplier because of, any apportionment under any Apportionment Legislation.

23.3 The Supplier agrees to include a provision in any sub-contracts into which it enters in connection with the Services that is the equivalent of this clause 22.

24. MODERN SLAVERY

24.1 The Supplier warrants and agrees that:

(a) it is aware of all applicable obligations (if any) of the Supplier under Applicable Modern Slavery Laws;

(b) it has complied, and will comply at all times, with Applicable Modern Slavery Laws;

(c) it has taken, and will continue to take, all reasonable and necessary steps to identify, investigate and eliminate Modern Slavery in its operations and supply chains to ensure that no such Modern Slavery exists; and

(d) it will, promptly upon request and at no cost to PIC, provide all information reasonably requested by PIC regarding the Supplier's operations and supply chains to enable PIC to comply with its own obligations, including as to reporting, under Applicable Modern Slavery Laws.

25. GENERAL

25.1 **Survival:** The rights and obligations under clauses 14, 15, 17 and 20 survive termination of the Contract.

25.2 **Entire Agreement:** The Contract comprises the entire agreement between the Parties in respect of its subject matter and supersedes all prior agreements, quotation requests, understandings, representations, warranties, promises, statements, negotiations, letters and documents in respect of its subject

matter. The Parties agree that that there have been no representations made by or on behalf of PIC or conduct by or on behalf of PIC, whether made orally or in writing, which are not expressly included or referred to in the Contract documents which the Supplier has relied on in agreeing the Price.

25.3 **Severance:** If any provision of the Contract is determined to be void by any court then that determination does not affect any other provision of the Contract which otherwise remains in full force and effect.

25.4 **Waiver:** Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power, or remedy under any law or under the Contract by a Party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided under any law or under the Contract. A waiver given by a Party under the Contract is only effective and binding on that Party if it is given or confirmed in writing by that Party. No course of dealings between the Parties removes the requirement under this clause that a waiver must be in writing to be effective and binding upon the Parties. No waiver of a breach of a term of the Contract operates as a waiver of any other breach of that term or of a breach of any other term of the Contract. Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power, or remedy under any law or under the Contract by PIC does not preclude, or operate as an estoppel of any form of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided under any law or under the Contract.

25.5 **Confidentiality:** The Supplier agrees to keep confidential this Contract, its terms and any other information disclosed to the Supplier by PIC or any Site Representative in connection with the Services.

25.6 **Variations:** An amendment or variation to the Contract is not effective unless it is in writing and signed by the Parties.

25.7 **Assignment:** The Supplier must not assign the Contract or any part of the Supplier's obligations under the Contract without the prior written consent of PIC, which must not be unreasonably withheld.

25.8 **Subcontracting:** The Supplier must not subcontract all or any of its obligations under the Contract without the prior written consent of PIC, which must not be unreasonably withheld. The acts and omissions of any subcontractors are deemed to be the acts and omissions of the Supplier, for which the Supplier remains responsible under this Contract.

25.9 **Non-merger:** The warranties, undertakings and indemnities in the Contract will continue in full force and effect until the respective rights and obligations of the Parties have been fully performed and satisfied.

25.10 **Further Assurance:** Each Party must do all things and execute all further documents necessary to give full effect to the Contract and the transactions provided for by the Contract.

25.11 **Exclusion:** The operation of the Convention is expressly excluded.

25.12 **Governing Law:** The Contract is governed by, and is to be interpreted in accordance with the laws in force in the State or Territory in which the Services are performed and the Parties submit exclusively to the jurisdiction of the courts in that State or Territory.

25.13 **Force Majeure:** Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent caused by a Force Majeure Event.

A Force Majeure Event includes acts of God, war, civil disorder, terrorism, pandemics, natural disasters, and government restrictions.

The affected party must promptly notify the other party and use all reasonable efforts to mitigate the effects. If the event continues for more than 30 days, either party may terminate the Contract without liability beyond amounts properly accrued to that date.

26. DEFINITIONS

26.1 In these Conditions:

Action means any claim, action, suit, proceeding or demand.

Applicable Modern Slavery Laws means any modern slavery Legislative Requirements that are applicable to the Supplier, PIC or the Contract, including the *Modern Slavery Act 2018* (Cth) and the *Modern Slavery Act 2018* (NSW).

Business Day means a day except Saturdays, Sundays, public holidays in the State where the Site is located and any other days excluded by the Security of Payment Act.

Conditions means these terms and conditions of purchase including any additional Special Conditions.

Contract means the Purchase Order and the Conditions.

Contract IP means all Intellectual Property developed by or on behalf of PIC in connection with providing the Services.

Defect means any aspect of the Services not in accordance with this Contract, or which is damaged, deficient, faulty, inadequate or incomplete in design, performance, workmanship, quality or makeup and **Defective** has an equivalent meaning.

Delivery Dates means the dates for supply of Services (including Goods) stated in the Purchase Order.

Discoveries means all works, ideas, concepts, reports, designs, discoveries, inventions (whether patentable or not) and Intellectual Property made by the Supplier or its Personnel, alone or with others, in the course of performing the Services or otherwise arising out of the use of any of PIC's time, materials, resources or facilities including all computer programs, source codes, compilations, flowcharts and software developed or adapted for specific application to or by the Company.

Fuel Tax Credit has the meaning given in the *Fuel Tax Act 2006* (Cth).

Goods means the goods specified in the Purchase Order including, without limitation, manuals, operating instructions, reports and drawings.

GST has the meaning given to that expressions in the *A New Tax System (Goods and Services Tax) Act 1999*.

HSE means health, safety and environment.

Intellectual Property means all industrial and intellectual property rights (including rights to patents, designs, copyright, trade marks, trade names and circuit layouts) conferred under statute, common law, equity or otherwise in any country.

Legislative Requirements means any applicable statutes, regulations, by-laws, orders, awards, proclamations of the Commonwealth, certificates, licences, consents, permits, approvals, codes, standards and requirements of organisations.

Liability means any Action, damages, losses, liabilities, costs or expenses of any kind and includes consequential loss, damage or expense (including but not limited to loss of profit or revenue, loss of market or loss of contracts or damage to commercial reputation).

Loss means any loss, damage, expense, payment or liability, whether direct or indirect, and includes consequential loss, damage or expense (including but not limited to loss of profit or revenue, loss of market or loss of contracts or damage to commercial reputation).

Modern Slavery has the meaning stated in Applicable Modern Slavery Laws.

Party means PIC or the Supplier, and a reference to Parties is a reference to both of them.

Personnel means any person, consultant or subcontractor engaged by the Supplier to provide all or any part of the Services on behalf of the Supplier.

PIC means Pacific Industrial Company (WA) Pty Ltd ACN 008 895 154 as trustee for the Steelfab Unit Trust ABN 35 813 081 087.

Price has the meaning given in clause 11.1.

Purchase Order means the written order signed by or on behalf of PIC and accepted by the Supplier for the supply of the Services.

Related Body Corporate has the meaning given in the *Corporations Act 2001* (Cth).

Security of Payment Act means:

(a) if the law governing the Contract is the law of Western Australia, then the *Building and Construction Industry (Security of Payment) Act 2021* (WA);

(b) if the law governing the Contract is the law of New South Wales, then the *Building and Construction Industry Security of Payment Act 1999* (NSW);

(c) if the law governing the Contract is the law of Queensland, then the *Building Industry Fairness (Security of Payment) Act 2017* (Qld);

(d) if the law governing the Contract is the law of Tasmania, then the *Building and Construction Industry Security of Payment Act 2009* (Tas);

(e) if the law governing the Contract is the law of the Northern Territory, then the *Construction Contracts (Security of Payments) Act 2004* (NT);

(f) if the law governing the Contract is the law of Victoria, then the *Building and Construction Industry Security of Payment Act 2002* (Vic); or

(g) if the law governing the Contract is the law of South Australia, then the *Building and Construction Industry Security of Payment Act 2009* (SA).

Services means the services specified in the Purchase Order and includes any associated Goods.

Site means the premises specified in the Purchase Order.

Site Representative means a representative of the owner or operator of the Site, as notified in writing by PIC to the Supplier from time to time.

Special Conditions means the special terms and conditions set out in Appendix D to the Purchase Order.

Specifications means all codes, standards, drawings and specifications applicable to the Contract, referred to in the Contract documents or otherwise incorporated into the Contract by reference and to be complied with by the Supplier.

Supplier means the supplier of the Services specified in the Purchase Order.

Supplier IP means all Intellectual Property which the Supplier can demonstrate:

(a) was owned by the Supplier as at the date of the Purchase Order; or

(b) came into existence after the date of the Purchase Order independently of the performance of this Contract and was not paid for by PIC.