Works Contract

Kemerton Lithium Project

—

Albemarle Lithium Pty Ltd (**Company**)

[*insert name*] (**Contractor**)

—

Works Contract

Kemerton Lithium Project

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Details

Date

Parties

Name	Albemarle Lithium Pty Ltd
ACN	618 095 471
Short form name	**Company**
Notice details	Address: Level 7, 197 St Georges Terrace, Perth, Western Australia 6000 Email: Stephen Buras@albemarle.com Attention: Stephen Buras

Name	*[insert]*
ACN	*[insert]*
Short form name	**Contractor**
Notice details	Address: *[insert]* Phone: *[insert]* Fax: *[insert]* Email: [*insert email address 1*] copied to [*insert email address 2*] Attention: *[insert]*

Background

A The Company is planning the design, construction and operation of a lithium processing facility near Bunbury in Western Australia (the **Project**).

B The Contractor has represented to the Company that it has knowledge and experience in the carrying out of works of an equivalent nature, scale and complexity as the Works.

C The Contract sets out the terms and conditions on which the Company agrees to engage the Contractor to carry out the Works and the Contractor accepts such engagement.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In the Contract:

Actual Outturn Cost means the aggregate of the Allowable Costs and the Margin.

Affiliate means any company, corporation or other entity controlled by, in control of or under common control with, a party. For the purpose of this definition, "control" means the ownership, legally or beneficially, directly or indirectly, of fifty percent (50%) or more of the voting shares or membership interest of a company, corporation or other entity.

Albemarle Group means Albemarle Corporation and its Affiliates.

Albemarle IP means the Intellectual Property Rights of the Company or any member of the Albemarle Group (as the case requires) which:

(a) are in existence at the date of the Contract; or

(b) come into existence after the date of the Contract otherwise than in connection with the Contract.

Allowable Costs means the costs identified in [Schedule 8].

Anticorruption Laws means all laws prohibiting bribery and corruption which, by entering into the Contract, the Contractor agrees to comply with, including:

(a) the *Bribery Act 2010* (United Kingdom);

(b) the *Foreign Corrupt Practices Act of 1977* (United States); and

(c) relevant prohibitions in the *Criminal Code Act 1995* (Cth) and in state criminal laws (Australia).

Applications means an application for any Approval in respect of the Works. *[Note: these provisions may only be necessary in a limited number of particularly sensitive scenarios.]*

Approval includes any accreditation, consent, licence, permit, authorisation, lodgement, filing, certificate, direction, authority, approval, permission, declaration, requirement or exemption issued by a Government Agency.

Assign means, in respect of a Party, assign, encumber, novate, mortgage or otherwise deal with the Contract or any of the relevant Party's interests, rights and obligations under or in connection with the Contract (and **Assignment** has a corresponding meaning).

Baseline Contamination Report means the report prepared by Galt Geotechnics Pty Ltd dated 12 February 2018 titled Report on Baseline Contamination Assessment and approved by an auditor under the CS Act which identifies any Contamination present in, on or under the Site at the Commencement Date.

Best for Project Decision means a decision made by the Company to deviate from the planned course of action where:

(a) a party has identified in writing to the Company the potential benefits to the Project of the alternative course of action;

(b) that party has clearly identified in writing to the Company the potential risks associated with the alternative course of action; and

(c) the Company has accepted in writing the alternative course of action.

Best Industry Practice means the most stringent of practices, policies, methods, standards (including any relevant international standard taking into account any standards specified in Schedule 1) and acts that would reasonably be expected from a qualified, competent and skilled tier one international engineering, procurement and construction contractor experienced in performing services of a similar nature to the Works:

(a) for a project of a similar size, scope, complexity and nature to the Project; and

(b) so as to achieve the outcomes required under the Contract, including in relation to reliability, safety, and the protection of the Environment in a manner consistent will all relevant laws and relevant industry standards.

Business Day means a day that is not a weekend or public holiday in Perth, Western Australia.

Change of Law means the Unforeseen:

(a) adoption or promulgation of new laws or regulations; or

(b) modification or repeal of existing laws or regulations; or

(c) modification or withdrawal of any Approval or any conditions attaching to an Approval,

after the date of the Contract.

Claim means any claim by the Contractor for or entitlement of the Contractor to:

(a) any extension of the time within which the Contractor must complete the Works, or perform any obligation under or in connection with the Contract;

(b) any costs, expenses, damages, liabilities or other amounts of whatever nature against the Company, the Company Representative or any of the Company's Personnel; or

(c) any relief from any of the Contractor's obligations or liabilities under the Contract,

whether under the Contract (including any matter that is subject to assessment, valuation, determination or certification by the Company or the Company Representative or otherwise) or otherwise at law or in equity (including under statute, in tort (including negligence) or for restitution, unjust enrichment or quantum meruit).

Commencement Date means the date of the Contract.

Company Insurances means those insurances to be obtained and maintained by the Company as required under Schedule 13.

Company Policies and Standards means the Company policies included in Schedule 5.

Company Representative means the person appointed by the Company as its representative for the purposes of the Contract and includes:

(a) such other person as the Company may, in writing to the Contractor, substitute for that representative; or

(b) any person authorised by that representative to perform any of that representative's powers, duties, discretions or authorities.

Confidential Information means:

(a) the existence and terms of the Contract;

(b) any information (in whatever form) of a confidential nature:

  (i) disclosed by the Company which relates to the Project, the business, affairs or activities of the Company or any member of the Albemarle Group:

  (ii) which is generated by the Contractor or its Personnel in performing the Works, including Deliverables; and

(c) all information and records (in whatever form) belonging to the Company or any member of the Albemarle Group relating to its business affairs, financial performance, human resources, contractual relationships, mining and processing assets, including Records,.

Consequential Loss means:

(a) any loss of revenue, profit, anticipated profit or savings, production, contracts, business opportunity, goodwill, exemplary or punitive damages; and

(b) any indirect and consequential loss as the Parties would at the time when they made the Contract have reasonably expected to be the probable result of the breach,

whether caused by or in relation to breach of contract, warranty, tort, product liability, contribution, strict liability or government authority.

Construction Equipment means all machinery, plant, equipment, tools, consumables, temporary buildings, appliances, scaffolding, formwork and other items of a similar nature used for or in relation to the performance of the Works.

Contaminated means that land or water contains any substance, whether solid, liquid or gaseous, including a 'contaminant' as defined in any applicable law, which is:

(a) harmful or potentially harmful to property, human beings, vegetation, animals, birds, or other terrestrial life or ecosystems;

(b) detrimental to any beneficial use made of the Environment; or

(c) unlawful to emit, discharge or deposit to, or disturb in, the Environment,

(d) and includes 'contaminated' as defined in any Law,

and **Contaminant** and **Contamination** have corresponding meanings.

Contract is defined in clause 2.1.

Contract IP means the Intellectual Property Rights in the Deliverables.

Contractor Default Notice is defined in clause 47.1.

Contractor Insurances means those insurances to be obtained and maintained by the Contractor as required under Schedule 13.

Contractor IP means the Intellectual Property Rights of the Contractor which:

(a) are in existence at the date of the Contract and which the Contractor can show came into existence other than in connection with the provision of the Works or the Contract; or

(b) come into existence after the date of the Contract otherwise than in connection with the Contract,

which in each case can be proven by tangible evidence.

Contractor Representative means the person appointed by the Contractor as its representative for the purposes of the Contract and includes:

(a) such other person as the Contractor may, in writing to the Company, substitute for that representative; or

(b) any person authorised by that representative to perform any of that representative's powers, duties, discretions or authorities.

Control of an entity:

(a) is defined in section 50AA of the Corporations Act; and

(b) in the case of a corporation, includes the power (whether it is legally enforceable or not) to control, whether directly or indirectly, the composition of the board of directors of that corporation, the voting rights of the majority of the voting shares of the corporation or the management of the affairs of the corporation.

Corporations Act means the *Corporations Act 2001* (Cth).

CS Act means the *Contaminated Sites Act 2003* (WA).

Customs Duties means any and all government tax on imports or exports of products and include any applicable customs, import / export duties, fees, tariffs or similar analogous taxes in any and all jurisdictions.

Date for Practical Completion means the date identified as such in the Program.

Defect means:

(a) any Works which are not performed in accordance with the Contract;

(b) any cracking, damage, deficiency, displacement, disrepair, failing, fault, movement, error, omission, shrinkage or subsidence or other imperfection in the Works; and

(c) any physical damage to the Works resulting from any of the matters referred to in paragraph (a) of this definition.

Defects Liability Period means each of the following periods:

(a) in relation to the Works, the period of [24] months commencing on the Practical Completion Date; and

(b) in relation to any Defects rectified during such period, a further period of [12] months commencing on the date of the rectification those Defects, provided that the total period in which any Defect must be rectified will be no less [24 months] from the Practical Completion Date. *[Note: to be confirmed on a case by case basis.]*

Delay Liquidated Damages is defined in clause 22.1(a).

Deliverables means all material, including any Documentation, computer software, drawings and data stored by any means which is created in the process of, or for the purpose of, performing the Works.

Design Obligations means the works relating to the design and engineering of the Works as set out in Schedule 1.

Discrepancy means any omission, inconsistency, ambiguity, discrepancy or inadequacy in or between any documents forming part of the Contract or relevant to the carrying out of the Works.

Dispute means any dispute, question or difference of opinion between the Parties arising out of or in connection with the Contract.

Documentation includes plans, designs, drawings, calculations, engineering information, data, specifications, sketches, notes, samples, reports, maps, accounts, operating manuals, training materials and any other material specified in the Contract (and whether embodied in tangible or electronic form).

Effective Date means the date a Notice to Proceed is issued under clause 3.4.

Eligible Data Breach has the meaning given to that term in the Privacy Act.

Environment includes:

(a) land, waters, atmosphere, climate, sound, odours, noise, tastes, and the biological factors of animals and plants;

(b) ecosystems and their constituent parts, including people and communities;

(c) natural and physical resources;

(d) the qualities, amenity and characteristics of locations, places and areas;

(e) the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraph (a), (b), (c) or (d); and

(f) 'environment' as defined in any applicable law,

and **Environmental** has a corresponding meaning.

Environmental Event means any event or series of events arising out of or in connection with the performance of the Contract which has resulted, or results, in any actual or potential harm to the Environment including any event or series of events not authorised by or in breach of any Approval, law (whether statute or common law), consent, licence or other Government Agency requirement.

Environmental Expert means a reputable person who is suitably qualified and experienced in identifying and advising on remediation of Contamination.

Environmental Harm means 'material environmental harm' or 'serious environmental harm' as defined in the EP Act.

Environmental Law means:

(a) any legislation, other law or standard set by a Government Agency which regulates or has as its purpose, objective or effect the registration, protection, conservation or enhancement of the Environment; and

(b) all Approvals issued under any Law described in paragraph (a).

Environmental Management System means an environmental management system conforming to the requirements of the AS/NZ ISO 14000 series of standards, as amended from time to time, which contains relevant registers, procedures, programs and other documentation to manage the implementation of the Approvals required under Environmental Laws.

Environmental Notice means any notice, direction, order, demand or other requirement to take any action or refrain from taking any action from any Government Agency whether written or oral and in connection with any Environmental Law.

EP Act means the *Environmental Protection Act 1986* (WA).

EPCM Contractor means [Amec Foster Wheeler Australia Pty Ltd (ABN 52 008 992 694)].

Fabrication Defect means any Defects in the Works detailed in [schedule XX – fabrication works].

Final Design Documentation means Reviewable Design Documentation that has been accepted under clause 17.3(b)(i).

Final Invoice is defined in clause 33.10(c).

Final Payment Claim is defined in clause 33.10(a).

Final Payment Certificate is defined in clause 33.10(b).

Force Majeure means:

(a) fire, explosion, earthquake, cyclone, act of God, natural disaster, radioactive contamination or epidemic;

(b) riots, civil commotion, access disruptions, blockade, malicious damage, sabotage, acts of a public enemy, acts of terrorists, war (declared or undeclared) or revolution; or

(c) strikes, lockouts, industrial and labour disputes or difficulties, work bans, blockades or picketing, work stoppages (or deterioration), slowdowns, or other labour actions (in each case, whether legal or illegal) by persons other than the Contractor's Personnel,

in each case:

(a) to the extent not due to the fault or negligence of the Party relying on the event;

(b) the effects of which are not able to be overcome by the exercise of reasonable care, proper precautions and the consideration of reasonable alternatives with the intention of avoiding the effects of the Force Majeure; and

(c) which could not have been reasonably foreseen.

To avoid doubt, **Force Majeure** excludes:

(a) changes in economic or market conditions or financial hardship under the Contract prior to, during or after execution of the Contract; and

(b) rain, wind, dust and other weather conditions (including ground conditions caused by those events) whether a usual or unusual part of the local weather pattern.

Government Agency means any government or governmental, semi-governmental, administrative, national, regional, provincial, municipal, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, in each case having lawful jurisdiction over the Works, the Site, the Project or the Contractor.

GST means the same as it means in the GST Law.

GST Law means the same as it means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Health and Safety Plan means the health and safety plan to be developed by the Contractor and accepted by the Company in accordance with clause 27.3.

Insolvency Event means, in respect of a Party, any one or more of the following events occurs in relation to the Party or its ultimate parent:

(a) a receiver, manager, receiver and manager, trustee, administrator, controller (as defined for the purposes of Section 9 of the Corporations Act) or similar officer is appointed (and

whose appointment is not withdrawn within [5] Business Days) in respect of it or substantially over all of its assets;

(b) a liquidator or provisional liquidator is appointed;

(c) an order is made, or a meeting is convened, or a resolution is passed, for the purpose of:

(i) appointing a person referred to in paragraphs (a) or (b);

(ii) winding up;

(iii) proposing or implementing a scheme of arrangement; or

(iv) a moratorium of any debts or an official assignment or a composition or an arrangement (formal or informal) with its creditors or any similar proceeding or arrangement by which its assets are subjected conditionally or unconditionally to the control of its creditors is ordered, declared or agreed to, or is applied for and the application is not withdrawn, stayed or dismissed within [5] Business Days;

(d) an application has been made in connection which is preparatory to or could result in any of the circumstances in paragraphs (b) or (c) above, and is not stayed, withdrawn or dismissed within [5] Business Days;

(e) it admits in writing that it is insolvent;

(f) it is declared to be insolvent or becomes unable to pay all its debts as and when they become due and payable;

(g) any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to substantially all of its assets; or

(h) any act is done or event occurs which under the law from time to time of a country other than Australia has an analogous or similar effect to any of the events in paragraphs (a) to (g).

Intellectual Property Rights means all industrial and intellectual property rights whether protectable by statute, at common law or in equity, including:

(a) patents and patent applications, and all related continuations, continuations-in-part, divisionals, reissues, re-examinations, substitutions and extensions thereof, utility models and utility model applications, and industrial designs;

(b) trade marks, service marks, trade names, logos, an action in passing off, internet domain names, social media names, together with the goodwill connected with the use thereof and symbolised thereby;

(c) copyrights, including copyrights in computer software;

(d) registrations and applications for registration of any of the foregoing under paragraphs (a)-(c) of this definition;

(e) trade secrets, know-how, methods, techniques, processes (including manufacturing processes), formulae, design or technical specifications, test results, testing methods, procedures, data, metadata, inventions, customer and business lists and other confidential and proprietary information; and

(f) the right to sue at law or in equity for all claims or causes of action arising out of or related to any past, present or future infringement, misappropriation or violation of any of the foregoing, including the right to receive all proceeds and damages therefrom.

Key Personnel means each of the persons identified as such in Schedule 3.

Key Subcontract means a Subcontract between the Contractor and a Key Subcontractor.

Key Subcontractor means:

(a) those entities listed in Schedule 14; and

(b) any entity which the Contractor proposes to enter into a subcontract with which the Company (acting reasonably) identifies as being key to the Works.

Liabilities means damages, claims, actions, suits, proceedings, demands, losses, liabilities, costs and expenses of any kind, whether known or unknown, actual, contingent or otherwise, and whether arising now or hereafter.

Margin means the amount identified as such in Schedule 6.

Milestone means each of the milestones identified as such in the Program. *[Note: The Program must clearly identify the Milestones, including those key Milestones to reaching Practical Completion.]*

Moral Rights means the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, which rights are created by the *Copyright Act 1968* (Cth), and if the works are used in any jurisdiction other than Australia, any similar right capable of protection under the laws of that jurisdiction.

Official means:

(a) any officer or employee of any Government Agency, or any person acting in an official capacity on behalf of any such Government Agency;

(b) a candidate for political office, an official of a political party or an employee of an organisation which is owned or controlled by a government, or government instrumentality;

(c) any officer or employee of a public international organisation (for example, the United Nations, International Monetary Fund or World Bank); or

(d) a direct family member of a person covered in paragraphs (a)-(c) of this definition.

On-Hire Construction Equipment means any Construction Equipment used for or in connection with the Works and hired by the Contractor or its Subcontractors or held by the Contractor or its Subcontractors under rental agreements whereby ownership or property rights are vested wholly or partly in a third party other than a Related Body Corporate of the Contractor or its Subcontractors.

OSH Legislation means the legislation, laws and regulations regulating work health and safety applicable to the Works including where applicable

(a) the *Mines Safety and Inspection Act 1994* (WA) (**MSI Act**);

(b) the *Mines Safety and Inspection Regulations 1995* (WA) (**MSI Regulations**);

(c) the *Occupational Safety and Health Act 1984* (WA) (**OSH Act**); and

(d) the *Occupational Safety and Health Regulations 1996* (WA) (**OSH Regulations**).

Party means the Company or the Contractor as the context requires, and **Parties** means both of them together.

Personal Information has the meaning given in the Privacy Act and for the purposes of clause 62 includes such information or opinions provided by the Company or generated by the Contractor under the Contract.

Personnel means:

(a) in relation to the Contractor, any of its employees, Subcontractors (including Subcontractors' Personnel), agents and representatives involved either directly or indirectly in the performance of the Works;

(b) in relation to the Company, any of the Company's or a member of the Albemarle Group's past or present officers, employees, agents (including the EPCM Contractor) or representatives (other than the Contractor); and

(c) in relation to a Subcontractor, any of its employees, agents or representatives involved either directly or indirectly in the performance of the Works.

Pollution has the same meaning given to that term under the EP Act.

Post Contamination means Contamination that:

(a) did not exist at the Commencement Date as indicated in the Baseline Contamination Report; and

(b) is not, and does not arise out of any, Contamination which has migrated from land adjoining or otherwise nearby to the Site.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Practical Completion is when the requirements of clause 20.4(a) have been met

Practical Completion Date is defined in clause 20.4(c)(ii). *[Note: provisions to be developed further]*

Principal Contractor means a person appointed as such by the Company and as notified to the Contractor from time to time.

Prior Contamination means Contamination that existed at the Commencement Date as identified in the Baseline Contamination Report.

Privacy Act means the *Privacy Act 1988* (Cth).

Program means the timetable setting out the key dates for completion of the Works (including the Milestones), the initial version of which is set out in Schedule 2. *[Note: this is a key document for the Contract. It must be a detailed timetable for the provision of the Works and include all the Milestones to be met.]*

Project is defined in Background A.

Project Approvals mean the Approvals for the Project to be obtained by the Company, as identified in Schedule 4.

Records means, in relation to the Works, all design calculations, tender estimates, calculations and make ups, records as to progress, diary records of daily tasks, complete photographic records, quality system documents and records, results of the examination and testing of any work or materials, quality assurance records and reports, cost to date records, cost to complete calculations, time records, all cost records relating in any way to delays, variations and day works, all consultants' reports and opinions obtained by the Contractor, details of all charges, taxes, royalties and other levies paid by the Contractor and all necessary supporting documents, subcontracts, purchase orders, invoices, records and related financial statements whether in writing or stored on any other medium, including any electronic medium.

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Rely Upon Information means the documents listed in Schedule 12, except to the extent the Contractor is required or ordinarily expected when exercising Best Industry Practice in performing the Works, to check, confirm, verify or resolve any omission, inconsistency, ambiguity, inadequacy, discrepancy or the sufficiency of such documents and other information.] *[Note: inclusion to be considered on a project specific basis.]*

Remediation in relation to Contamination includes:

(a) carrying out any relevant remediation, restoration and mitigation actions in respect of Contamination;

(b) action to prevent, minimise, remove, disperse, manage, destroy, mitigate or monitor any Contamination;

(c) investigating, monitoring and ascertaining the nature and extent of Contamination;

(d) eliminating or reducing any hazard or risk to human health or the Environment arising from Contamination; and

(e) complying with any Environmental Notice in relation to Contamination, including preparing and carrying out a remedial plan of action required by any Government Agency, or complying with any court order.

Reviewable Design Documentation means *[if applicable, insert technical description by reference to the level of design development when the contract is entered into and what remains to be developed and reviewed by the Company]*.

Scope of Works means the Company's detailed requirements for the Works set out in Schedule 1.

Security is defined in clause 6.1 and includes any additional or replacement Security provided under clause 6.2.

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

Sensitive Information has the meaning given in the Privacy Act.

Side Deed means a subcontractor side deed substantially in the form of Schedule 15.

Site means the land upon which the Works are to be carried out, being part of Lot 510 on Deposited Plan 50377, being the whole of the land on Certificate of Title Volume 2649 Folio 99, otherwise known a part of Lot 510, Wellesley Road, Wellesley, Western Australia.

Site Conditions means, other than any Prior Contamination, any condition affecting or potentially affecting the Site including:

(a) ground water and the effects of any de-watering;

(b) physical conditions on, above or below the surface of land;

(c) topography of land surface and sub-surface conditions and geology including rock or other materials;

(d) climatic and weather conditions, rain surface water run-off and drainage, water seepage, wind, wind-blown dust and sand in seasons;

(e) all existing systems and utilities above or below the surface of land and the location of all facilities connected to such systems and utilities; and

(f) the presence or introduction of any hazardous substance.

Subcontract means a contract between the Contractor and a Subcontractor.

Subcontractor means any entity engaged by the Contractor to perform all or any part of the Works.

Surrounding Area means any land or water adjacent to or in the vicinity of the Site and the air generally above the Site, and includes an 'affected site' as defined in the *Contaminated Sites Act 2003* (WA).

Target Outturn Cost means the estimated total cost for the Works set out in [Schedule 6].

Taxes means any and all taxes, excluding GST, but including excise, stamp, documentary, customs, import/export, payroll, personal, property, real property, interest equalisation, business, occupation, turnover, income, corporation, capital, profits, gains, gross receipts, or other taxes, fees, withholdings, imposts, levies, duties or other charges of any nature whatsoever or whensoever (other than taxes on the Company's net income), together with any penalties, fines or interest thereon or similar additions thereto, imposed, levied or assessed by any Government Agency or otherwise payable, on or in respect of the supply of the Works.

Termination Notice is defined in clause 46.1.

Third Party Utilities means electricity, gas or water mains, telephone cabling, signalling cables, drainage, sewerage and other communications infrastructure or equipment or utilities installed, operated or owned by an entity other than the Parties.

Unforeseen means not reasonably foreseeable by a company exercising Best Industry Practice on or before the date of the Contract.

Validation Report means a report prepared by an Environmental Expert and approved by an auditor under the CS Act which verifies that all Post Contamination has been Remediated in accordance with all applicable laws and all requirements of any applicable Government Agency.

Variation means any increase or decrease in, or omission from or addition to, or change in the character or quality of, any part of the Works or an acceleration or resequencing of the Works.

Variation Order means a written instrument signed by the Company Representative directing a Variation under clause 23.4.

Wilful Default means, in respect of a Party:

(a) any fraud, fraudulent concealment or dishonesty;

(b) any intentional, wanton or reckless act or omission of the Party or any of its Personnel with reckless indifference to the possible harmful consequences arising from that act or omission;

(c) any breach of a contract made by the Party in circumstances where it knew it was a breach;

(d) any illegal or malicious act or omission of the Party or any of its Personnel; or

(e) misleading and deceptive conduct under Schedule 2, clause 18 of the *Competition and Consumer Act 2010* (Cth).

Works means the works described in Schedule 1, including any variations, remedial work and temporary work and all things necessary or incidental to those works.

Works Plan means the project execution plan to be developed by the Contractor and accepted by the Company in accordance with clause 14.

1.2 Interpretation

In the interpretation of the Contract:

(a) clause headings and subclause headings are for convenience only and are not to be used in the interpretation or construction of the Contract;

(b) words in the singular include the plural and words in the plural include the singular;

(c) words importing a gender include all genders;

(d) a reference to a statute or statutory provision includes:

(i) a statutory provision which supplements, amends, extends, consolidates or replaces it; and

(ii) any applicable orders, regulations, instruments or other delegated legislation;

(e) no rule of construction will apply to the disadvantage of one Party on the basis that that Party put forward the documents comprising the Contract or any of them;

(f) another grammatical form of a defined word or expression has a corresponding meaning;

(g) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, the Contract, and a reference to the Contract includes any schedule or annexure;

(h) a reference to a document or instrument includes the document or instrument as validly assigned, novated, supplemented, updated, varied or replaced from time to time;

(i) a reference to A$, $A, dollar or $ is to Australian currency;

(j) a reference to a Party is to a party to the Contract, and a reference to a party to a document includes that Party's executors, administrators, successors and permitted assigns and substitutes;

(k) a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally;

(l) a reference to a person includes a natural person, partnership, corporation, association, governmental or local authority or agency or other entity;

(m) the meaning of general words is not limited by specific examples introduced by "includes", "including" or "for example"; and

(n) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2. Evidence of Contract and precedence of documents

2.1 The Contract

The Contract consists of the following documents:

(a) these terms and conditions;

(b) Schedule 1 – Scope of Works;

(c) Schedule 2 – Program;

(d) Schedule 3 – Key Personnel;

(e) Schedule 4 – Project Approvals;

(f) Schedule 5 – Company Policies and Standards;

(g) Schedule 6 – Contractor Performance;

(h) Schedule 6 – Progress Reporting;

(i) Schedule 8 – Schedule of Rates;

(j) Schedule 9 – Form of Bank Guarantee;

(k) Schedule 10 – Form of Parent Company Guarantee;

(l) Schedule 11 – Form of Deed of Release;

(m) Schedule 12 – Rely Upon Information;

(n) Schedule 13 – Insurances and coverage;

(o) Schedule 14 – Key Subcontractors;

(p) Schedule 15 – Subcontractor Side Deed; and

(q) Schedule 16 – Interface Deed.

2.2 Discrepancies and order of precedence

(a) If the Contractor discovers a Discrepancy, it shall promptly notify the Company Representative.

(b) The Parties agree that unless expressly stated otherwise or directed by the Company Representative:

(i) where the Discrepancy is between any documents forming part of the Contract, the documents shall, unless expressly stated to the contrary, be given precedence in accordance with the order in which they are listed in clause 2.1; *[Note: order of precedence to be confirmed once content of each schedule is determined.]*

(ii) where clause 2.2(b)(i) does not apply and the Discrepancy relates to the required quality or standard of the Works or the extent of the Contractor's obligations under the Contract, the Contractor shall comply with the highest quality or standard specified or perform the more onerous obligation;

(iii) where clauses 2.2(b)(i) and 2.2(b)(ii) do not apply or resolve the Discrepancy and the Discrepancy is between figured and scaled dimensions, figured shall prevail over scaled dimensions; and

(iv) where none of clauses 2.2(b)(i), 2.2(b)(ii) or 2.2(b)(iii) apply or resolve the Discrepancy, the Contractor shall comply with the Company Representative's direction as to the interpretation and construction to be followed in respect of the Discrepancy and, provided to the extent the Discrepancy was Unforeseen, such direction shall be treated as a Variation Order under clause 23.4.

3. Commencement of the Contract and the Works

3.1 Conditions for Effective Date

(a) Other than clauses 1 - 15 and 40 - 75 (**Day 1 Clauses**) the Contract does not commence until the Effective Date. *[Note: Day 1 Clauses to be finalised .]*

(b) Day 1 Clauses commence from the Commencement Date and all other clauses in this document are subject to the following conditions being satisfied or waived (as applicable):

(i) all necessary Project Approvals being obtained;

(ii) the provision of the Security required under clause 6.1 and parent company guarantee required under clause 6.8;

(iii) the Contractor delivering to the Company evidence satisfactory to the Company that any Key Subcontracts have been validly entered into by the parties to them;

(iv) [the Contractor delivering a Side Deed duly on terms reasonably required by the Company, executed by the Contractor and any Key Subcontractors listed in Schedule 14, for the Company to execute and complete];

(v) final board approval of Albemarle Corporation to proceed with the Project being given;

(vi) the Works Plan being accepted by the Company under clause 14;

(vii) the Health and Safety Plan being accepted by the Company under clause 27.3;

(viii) the IR Management Plan being accepted by the Company under clause 28;

(ix) the acceptance by the Company of any plans required under clause 8.2; and

(x) evidence that the insurances required under clause 42 have been procured.

(c) Other than in respect of any Project Approvals to be obtained, the Contractor must use its best endeavours to satisfy the conditions in clause 3.1(b) by the date set out in clause 3.3(a).

3.2 Waiver of conditions

(a) Each condition in clause 3.1(b) is for the benefit of the Company. No condition may be waived other than in writing by the Company.

(b) If a condition in clause 3.1(b) is not able to be satisfied (or has not been waived) by the date set out in clause 3.3(a), the Company may elect to make that condition a condition subsequent, on such terms as the Company may determine.

3.3 Termination

(a) If by 4.00pm on the date which is [90] Business Days after the Commencement Date, the conditions in clause 3.1(b) have not been satisfied or waived in accordance with clause 3.2, the Company may terminate the Contract by notice to the Contractor.

(b) Subject to any accrued rights, neither Party will be entitled to make any claim against the other as a result of the termination of the Contract under clause 3.3(a).

3.4 Satisfaction

(a) If the Company is satisfied that of all of the conditions in clause 3.1(b) have been satisfied or if not satisfied, waived by the Company in accordance with clause 3.2, the Company will issue a notice to the Contractor (**Notice to Proceed**).

(b) Upon receipt of a Notice to Proceed, the Contractor will commence the Works immediately and without any delays unless expressly approved by the Company.

4. Representations, warranties and acknowledgments

4.1 Contractor's representations and warranties

In addition to the other representations and warranties contained in the Contract, the Contractor represents and warrants that:

(a) it has, and will have at all times, the knowledge, competence, experience, expertise and human and financial resources required to properly provide the Works and ensure the due and proper performance of the Contract;

(b) its Personnel are, and will be at all times, competent, diligent, professional and efficient in their several trades and callings and will exercise all due skill, care and diligence, and are properly qualified and skilled to properly perform the Works and have all necessary professional licenses and memberships to perform such Works and for signing all required technical documents;

(c) its Subcontractors have and will at all times have the competence, experience, capacity, expertise, and human and financial resources required to ensure the performance of their respective Subcontract;

(d) it has, applying Best Industry Practice:

(i) examined all information relevant to the risks, contingencies and other circumstances having an effect on its obligations under the Contract, including in respect of the Site, which is obtainable by making reasonable enquiries; and

(ii) carefully examined the Scope of Works and any other written information provided to it by the Company.

(e) it will diligently proceed with the Works and perform the Contract in accordance with the terms and conditions stipulated therein, including in accordance with the requirements of clause 24.1;

(f) all of the Works will be provided in an efficient manner in accordance with all applicable legislation and laws or regulations; and

(g) the Works will be fit for their intended purposes.

4.2 Contractor acknowledgement

The Contractor acknowledges that the Company has entered into the Contract relying on the skill, care, expertise, experience and ability of the Contractor to provide the Works, and the Contractor’s representations and warranties in the Contract.

4.3 No representation by Company

The Parties acknowledge that, subject to clause 4.5:

(a) the Company has endeavoured and will continue to endeavour (without being obliged to do so) to ensure the accuracy of any information provided to, or obtained by, the Contractor or its Personnel from the Company;

(b) the Company does not warrant or guarantee the accuracy, sufficiency or otherwise of documents comprising such information and disclaims all responsibility for it; and

(c) any information so provided is for the convenience of the Contractor only and does not form part of the Contract other than information expressly forming part of the Contract under clause 2.1.

4.4 Company not liable

Subject to clause 4.5, the Contractor will not be entitled to any Claim in connection with, and Company is not liable for any Liabilities incurred or suffered by the Contractor as a result of its reliance in any way upon, any information given to it by or on behalf of the Company (other than information expressly forming part of the documents comprising the Contract under clause 2.1).

4.5 Rely Upon Information

Subject always to the Contractor exercising Best Industry Practice in performing the Works, the Parties agree that:

(a) the Contractor may rely on the Rely Upon Information for the purposes performing the Works, except for any obvious errors, inaccuracies or omissions; and

(b) the Contractor may Claim any additional cost or time reasonably and properly incurred by it as a direct result of any Unforeseen inaccuracy, error or ambiguity in the Rely Upon Information but the Contractor shall have no other Claim in connection with the Rely Upon Information.

4.6 Survival

This clause 4 will survive the expiry or earlier termination of the Contract.

5. Consents and review by the Company

5.1 Approvals and consents

(a) In the Contract, the use of the words 'consent', 'approval', 'approved', 'authorised', 'accepted', 'directed', 'required', 'requested' or any analogous term regarding the Company means that the Company's express consent in writing has been obtained in the prescribed form (if any).

(b) Any consent, approval, acceptance, authorisation or waiver by the Company may be:

(i) given or withheld in the Company's sole and absolute discretion (unless expressly stated otherwise); or

(ii) given conditionally or unconditionally.

(c) If any consent, approval, acceptance, authorisation or waiver is given conditionally:

(i) the Contractor must, if it relies upon the consent, approval, acceptance, authorisation or waiver, comply with the condition; and

(ii) if the Contractor does not comply with the condition it is not entitled to rely upon the consent, approval, acceptance, authorisation or waiver.

5.2 Company review of Deliverables

(a) The Company assumes no responsibility or duty of care to the Contractor to review (or when reviewing) any Deliverable or any other documentation or information submitted to the Company.

(b) No:

(i) review of, comment upon, acceptance, approval or certification of any Deliverable or any other documentation or information by (or on behalf of) the Company;

(ii) inspection or review of the Works by (or on behalf of) the Company;

(iii) failure by (or on behalf of) the Company, to detect any noncompliance by the Contractor with its obligations under the Contract,

will:

(iv) relieve the Contractor from, or alter or affect, its Liabilities, obligations or responsibilities whether under the Contract or otherwise, or affect any warranty or promise given by the Contractor under the Contract or otherwise at law;

(v) prejudice the Company's rights against the Contractor whether under the Contract or otherwise;

(vi) be construed as a waiver of any right under the Contract or any cause of action arising out of any act or omission of the Contractor or its servants, agents or employees; or

(vii) constitute an approval of:

(A) a Variation unless the provisions of clause 23 have been complied with; or

(B) an approval by the Company of the Contractor's performance of its obligations in accordance with the Contract or otherwise.

(c) In relation to any Deliverable submitted to the Company:

(i) the Company may request the Contractor to provide to the Company any further information reasonably required by the Company to enable the Company to properly consider the Deliverable (a **Further Information Notice**); and

(ii) the date by which the Company is to accept or reject the relevant Deliverable will be extended by the number of days it takes the Contractor to comply with any Further Information Notice.

(d) The Company's reasons for rejecting any Deliverable may include that in the reasonable judgment of the Company, the Deliverable submitted by the Contractor:

(i) is ambiguous, unclear or in error;

(ii) does not provide adequate detail;

(iii) is not fit for purpose;

(iv) is inconsistent with the Contract, including related Deliverables;

(v) will not meet the objective of the Deliverable; or

(vi) is otherwise not in accordance with the Contract.

6. Performance Security

6.1 Security

The Contractor must lodge with the Company two unconditional irrevocable bank guarantees to guarantee the Contractor's proper and timely performance of its contractual obligations. Each bank guarantee must:

(a) be payable on demand;

(b) remain valid and enforceable until the Release Date;

(c) be from a bank authorised to do business in Australia and otherwise acceptable to the Company in its absolute discretion;

(d) be in the form set out in Schedule 9, or such other form as the Company may accept; and

(e) be for an amount equal to [5%] of the Target Outturn Cost,

(**Security**).

6.2 Additional Security

If, as a result of one or more Variations under clause 23, there is a greater than [10%] increase in the Target Outturn Cost, the Contractor must within [30] days of a request by the Company, lodge with the Company an additional or replacement Security so as to ensure that Securities are provided for, in aggregate, an amount equal to [10%] of the revised Target Outturn Cost.

6.3 Reduction in Security

The Company's entitlement to Security shall be reduced to [5%] of the Target Outturn Cost upon the Practical Completion Date.

6.4 Stamp duty and other Taxes

All stamp duty and other Taxes payable in relation to the Security and any additional Security must be paid by the Contractor prior to lodging the Security with the Company.

6.5 No payment prior to lodgement of Security or if Security is unenforceable

Despite any other provision of the Contract to the contrary, the Company is not obliged to pay any amount to the Contractor:

(a) until the Contractor has lodged the Security, or additional Security, with the Company in compliance with clauses 6.1 or 6.2, as the case may be; and

(b) while any Security or additional Security is unenforceable by the Company for any reason.

6.6 Release Date

The Security will be held by the Company for the proper performance of the Contract until the later of:

(a) the issue of the Invoice in accordance with clause 28.8(c); and

(b) the date on which all moneys payable to the Company by the Contractor under the Contract have been paid,

(the **Release Date**).

6.7 Recourse to Security

(a) In addition to all its other rights under the Contract, the Company may have recourse to the Security if:

(i) the Company believes that the Contractor has not performed its obligations in accordance with the Contract or otherwise has a claim against the Contractor; or

(ii) the Contractor suffers an Insolvency Event.

(b) Despite any other provision of the Contract to the contrary, the Company will not be liable for any Liabilities incurred or suffered by the Contractor in relation to the conversion of the Security.

(c) The Contractor agrees that it will not in any proceedings whatsoever exercise any rights it may otherwise have, nor take any steps to injunct or otherwise restrain:

(i) the Company from using any sum or sums received from the conversion of the Security;

(ii) the Company from exercising its rights under the Security; or

(iii) the issuer of the Security from exercising its rights or performing its obligations under the Security

(d) The Company does not hold the Security on trust for the Contractor and the Company does not owe any obligations to the Contractor in relation to the Security other than those stated in the Contract.

6.8 Parent company guarantee

(a) The Contractor must provide to the Company a parent company guarantee (in the form set out in Schedule 10) duly executed by its parent or ultimate holding company.

(b) Despite any other provision of the Contract to the contrary, the Company is not obliged to pay any amount to the Contractor until the Contractor has provided the parent company guarantee in accordance with clause 6.8(a).

7. Laws and Approvals

7.1 Compliance with laws

Throughout the performance of the Works, the Contractor must ensure that it and its Personnel comply with all applicable Approvals, legislation, laws, and regulations.

7.2 Obtaining and maintaining Approvals

[Note: parties' respective obligations in relation to obtaining Approvals to be confirmed.]

(a) Subject to clause 7.2(b), the Contractor:

(i) is responsible for obtaining and maintaining all Approvals necessary for:

(A) the construction, completion and commissioning of the Works;

(B) managing the Site,

in each case subject to the provisions of the Contract.

(ii) bears any risk associated with obtaining and maintaining any Approval or any amendment to any Approval that it is required to obtain or maintain for or in connection with the Works.

(iii) must take all reasonable steps to obtain any such Approvals as soon as practicable and in any event to ensure that each of the Milestones are achieved.

(b) The Company will apply for, obtain and maintain the Project Approvals.

7.3 Applications

(a) The Contractor must prepare all Applications and all documents that are required by a Government Agency to be included with any Application.

(b) Any Application or any other documentation prepared by or on behalf of the Contractor in support of an Application in relation to the Works must be:

(i) developed to a level necessary to support the approval being sought; and

(ii) consistent with the requirements of the Contract.

(c) The Contractor must keep the Company reasonably informed of the anticipated timing of Applications to be submitted by the Contractor.

(d) The Contractor must not lodge:

(i) a proposed Application;

(ii) any amendment to an Application; or

(iii) any supplementary document in connection with an Application,

without the prior consent of the Company.

(e) At least [15] Business Days prior to lodging a proposed Application with a Government Agency, the Contractor must provide the proposed Application to the Company.

(f) The Company will review the proposed Application and within [10] Business Days:

(i) accept the proposed Application; or

(ii) reject the proposed Application and provide the Contractor with any required amendments, in which case:

(A) the Contractor must, within [5] Business Days amend and submit to the Company the proposed Application; and

(B) this clause 7.3(f) will apply again.

(g) The Contractor must:

(i) at the request of the Company, inform the Company of the progress of, and give the Company other relevant information in connection with, an Application once submitted; and

(ii) if it wishes or is required to discuss the content of any Application with any Government Agency, give the Company reasonable notice and allow the Company to participate in those discussions, including attending relevant meetings.

(h) The Contractor must promptly give the Company a copy of:

(i) each Application as lodged with any Government Agency;

(ii) all correspondence between the Contractor and any Government Agency in connection with any Application;

(iii) all Approvals and associated documentation received for or in connection with the Works.

(i) If any Government Agency refuses to give an Approval:

(i) the Contractor must, at its own cost, seek a review of, and if applicable, appeal the decision with the relevant Government Agency; and

(ii) if necessary, the Parties will consult with each other with a view to agreeing any amendments necessary to the Deliverables so as to enable the relevant Government Agency to give the Approval.

(j) The Contractor must:

(i) maintain accurate records regarding its compliance with all Approvals and all laws in connection with the Works; and

(ii) within [5] Business Days after a request by the Company, provide the Company with such evidence of the Contractor's compliance with this clause 7.3 as the Company may reasonably require.

8. Policies and Standards and business practices and standards

8.1 Compliance with Company Policies and Standards

Throughout the performance of the Works, the Contractor must comply with:

(a) all relevant Company Policies and Standards, including to be and to remain for the duration of the Works an active member of the ISNetworld service company (www.isnetworld.com) and to comply with the Company's "On-site Contractor qualifications and requirements" as set out in P-74211-PRO-0004_0 Onsite Contractor Qualifications and Requirements;

(b) any Site access policies; and

(c) any community relations policies.

8.2 Australian Industry Participation Plan

(a) For the purposes of this clause 8.2:

Act means the *Australian Jobs Act 2013* (Cth).

Authority means the Australian Industry Participation Authority.

AIP Plan means an 'Australian Industry Participation plan' (as that term is used in the Act).

Local Personnel, Suppliers and Manufacturers means those persons based in the following areas (giving preference to those persons in the order they appear below):

(i) Bunbury;

(ii) the South West of Western Australia;

(iii) the State of Western Australia; and

(iv) Australia.

Local Participation Plan means the plan prepared by the Contractor in accordance with this clause 8.2.

(b) The Contractor acknowledges that:

(i) the Act applies to the Project; and

(ii) an AIP Plan for the Project has been approved by the Authority and provided to the Contractor.

(c) The Contractor must in the performance of the Contract:

(i) ensure that Local Personnel, Suppliers and Manufacturers are provided with a full, fair and reasonable opportunity to bid for the supply of key goods and services for the Works; and

(ii) use Local Personnel, Suppliers and Manufacturers, except in those cases where the Contractor can demonstrate to the Company that it is not possible to do so (taking into account price, quality, delivery and service) or not consistent with the requirements of the Contract.

(d) The Contractor must, within 10 Business Days after the Commencement Date, submit its proposed local participation plan for the Works for review by the Company.

(e) In preparing a local participation plan, the Contractor must identify in detail how the Contractor plans to address the matters referred to in clause 8.2(c)

(f) The Company will review the local participation plan and within 10 Business Days:

(i) accept the draft local participation plan, in which case it will be the Local Participation Plan; or

(ii) provide the Contractor with any required amendments, in which case:

(A) the Contractor must, within 5 Business Days amend and submit to the Company the draft local participation plan; and

(B) this clause 8.2(f) will apply again.

(g) The Contractor must comply with the Local Participation Plan. *[Note: the reporting requirements in the Works Plan should include reporting of the Contractor's implementation of its obligations under this clause.]*

(h) The Contractor must ensure that all Subcontracts include:

(i) equivalent obligations to those in clause 8.2(c); and

(ii) an obligation on the Subcontractors to report to the Contractor on the implementation of those obligations.

(i) The Contractor must provide any information requested by the Company or any Government Agency to demonstrate the Contractor's and any Subcontractor's compliance with this clause 8.2.

9. Representatives

9.1 Company Representative

(a) The Company Representative is responsible for giving directions for and on behalf of the Company as provided in the Contract.

(b) Directions given to the Contractor by any person other than the Company Representative will not bind the Company unless ratified by the Company Representative.

(c) The Parties agree that:

(i) the Company must ensure that the Company Representative performs its functions under the Contract; and

(ii) the Company Representative exercises any powers, discretions, rights, duties and other functions under the Contract:

(A) as agent and representative of the Company; and

(B) in accordance with the instructions of the Company (acting in its absolute discretion), unless the Contract expressly requires otherwise.

9.2 Contractor Representative

(a) The Contractor Representative is responsible for liaising with the Company Representative in relation to any of the matters referred to in clause 9.1, and the

Contractor Representative will have full power to legally bind the Contractor in respect of all matters arising out of or in connection with the Contract.

(b) Any direction which the Company Representative gives to the Contractor Representative is deemed to have been given to the Contractor for and on behalf of the Company and the Contractor must comply with that direction accordingly. Any communication or notice given, or document signed, by the Contractor Representative is deemed to have been given or signed by the Contractor and will bind the Contractor. Matters within the knowledge of the Contractor Representative are deemed to be within the knowledge of the Contractor.

10. Best for Project Decisions

(a) The Contractor acknowledges that Best for Project Decisions will be necessary in order to achieve the Company's objectives.

(b) Without prejudice to clause 23.2, the Contractor must use its reasonable endeavours to facilitate and mitigate the impact of any Best for Project Decisions.

11. Project Management Group (**PMG**)

[Composition, role and decision making process of the PMG, CMG and CLG to be confirmed]

11.1 Composition

The PMG will be established within 10 Business Days of the Commencement Date. The PMG will comprise:

(a) the Company's Representative;

(b) the following personnel of the Contractor:

(i) the [insert]; and

(ii) the [insert];

(c) the following personnel of the EPCM Contractor:

(i) the [insert]; and

(ii) the [insert];

(d) equivalent representatives of any of contractors of the Company carrying out works on the Site;

(e) representatives of any subcontractors of the Contractors as reasonably required by the Company; and

(f) any other person the Company reasonably requires from time to time.

11.2 PMG functions

The functions and objectives of the PMG include:

(a) identifying all key interfaces between the Works and the activities of all other contractors at the Site. This includes access requirements and the provision of design and work methodology input, to the extent not already identified in Schedule 1;

(b) developing a program for the key interface activities to be incorporated into each relevant contractor's program (including provision of design information and the activities identified in Schedule 1);

(c) reviewing the progress (and anticipated progress) of the Works and the other contractors' activities;

(d) considering interface issues between the Works and the other contractors' activities, including their status, problems, solutions and newly identified interfaces;

(e) identifying strategies to efficiently manage key interface issues between the Contractor and other contractors;

(f) informing the making of Best for Project Decisions by the Company;

(g) considering and coordinating community and stakeholder relations issues;

(h) establishing administrative procedures to be adopted by the various parties in relation to the Project;

(i) reviewing the working relationship between the parties and addressing issues as they arise in a collaborative, constructive and efficient manner; and

(j) any other matters relating to the interface between the Contractor and other contractors.

11.3 PMG meetings

(a) The PMG must meet:

(i) at the dates and times specified by the Company's Representative, which will at least monthly from the Commencement Date until the date that is one month after Practical Completion Date;

(ii) in accordance with this clause 11.3; and

(iii) at other times as required by any of the Company [the Contractor and/or any other contractor].

(b) Ahead of each pMG meeting the Company will prepare and provide the members of the PMG (and any other person as required by the Company's Representative) with an agenda.

(c) The Company's Representative will be the chairperson of the PMG meetings.

(d) For each meeting of the PMG, the Company's Representative (or such other member of the PMG as is nominated by the Company's Representative) must record minutes of the meeting and distribute the minutes to all members of the PMG within 5 Business Days after the meeting. The Company's Representative may also require that the minutes be distributed to any other person.

(e) Notwithstanding the recording of the minutes of any PMG meeting, no resolution or communication at any PMG meeting (nor minutes recording any resolution or communication) or anything else which occurs during a PMG meeting or as part of the process for such meetings will:

(i) limit or otherwise affect the Contractor's obligations under the Contract, any [interface deed] or otherwise at law;

(ii) the Company's rights, whether under the Contract, any contract with another contractor or otherwise at law; or

(iii) be construed as or amount to a direction under the Contract unless and until a separate direction is given by the Company under the Contract,

and the parties agree that all materials referred to and all discussions, debates, disagreements and resolutions on any matters raised at these meetings are only for the purpose of reviewing the matters referred to in this clause 3 and other matters raised at the meetings.

12. Contract Management Group (**CMG**)

12.1 Composition

The CMG will be established within 10 Business Days of the Commencement Date. The CMG will comprise:

(a) the Company's Representative;

(b) the following personnel of the Contractor:

(i) the [insert]; and

(ii) the [insert];

(c) the following personnel of the EPCM Contractor:

(i) the [insert]; and

(ii) the [insert]; and

(d) any other person the Company reasonably requires from time to time.

12.2 CMG functions

The functions and objectives of the CMG include:

(a) reviewing the progress (and anticipated progress) of the Works;

(b) informing the making of Best for Project Decisions by the Company;

(c) establishing administrative procedures to be adopted by the various parties in relation to the Project; and

(d) reviewing the working relationship between the parties and addressing issues as they arise in a collaborative, constructive and efficient manner

12.3 CMG meetings

[insert].

13. Contract Leadership Group (**CLG**)

[Decision making process to be confirmed]

13.1 Composition

The CLG will be established within 10 Business Days of the Commencement Date. The CLG will comprise:

(a) [insert].

13.2 CLG functions

The functions and objectives of the CLG include:

(a) [considering issues escalated from the CMG];

(b) [insert[.

13.3 CLG meetings

[insert].

14. Works Plan

[Note: this is the key document that will set out how the Contractor will perform the Works to satisfy the requirements of the Contract. It must be prepared to:

- *address how the Contractor will achieve the desired outcomes generally; and*
- *specifically detail the administrative processes that will support the provision of the Works (in a manner consistent with the requirements of Schedule 1.)*

(a) The Contractor must, within [10] Business Days after the Commencement Date, submit its proposed works plan for the Works for review by the Company.

(b) The draft works plan, must be suitable and appropriate for the Works and the Project generally and:

(i) satisfy the applicable requirements of Schedule 1; and

(ii) detail how the Contractor will achieve the relevant Milestones, including achieving Practical Completion by the Date for Practical Completion;

(iii) include the rules, guidelines and safety procedures and practices to be observed in the performance of the Works at the Site;

(iv) include details of the testing and commissioning program for the Works;

(v) to the extent they are consistent with Best Industry Practice, have regard to and satisfy the requirements of the:

(A) Scope of Works; and

(B) relevant Company Policies and Standards.

(c) The Company will review the draft works plan and within [10] Business Days:

(i) accept the draft works plan, in which case it will be the Works Plan; or

(ii) reject the draft works plan and provide the Contractor with any required amendments, in which case:

(A) the Contractor must, within [5] Business Days amend and submit to the Company the draft works plan; and

(B) this clause 14(c) will apply again.

(d) The Company Representative may at any time request the Contractor to amend the Works Plan to adequately reflect the status of the Works and the Project generally, in which case:

(i) the Contractor must promptly submit a revised works plan; and

(ii) clauses 14(b) and 14(c) will apply.

15. Contractor obligations

15.1 General obligations

(a) The Contractor must perform its obligations in accordance with:

(i) the terms of the Contract;

(ii) any lawful directions of the Company Representative;

(iii) Best Industry Practice so that:

(A) each of the Milestones are achieved by the relevant date set out in Schedule 2; and

(B) the Works are completed within the Target Outturn Cost.

(b) In performing its obligations the Contractor must:

(i) have due and proper regard to the specific purposes expressed or reasonably inferable in the Contract and the Scope of Works;

(ii) carefully examine any information or documentation provided by or on behalf of the Company to the extent necessary to properly perform its obligations under the Contract; and

(iii) perform all further functions and provide all further materials which:

(A) by implication are necessary for the proper carrying out of the Works; and

(B) a contractor exercising Best Industry Practice would be reasonably expected to provide in carrying out services of a similar size, scope, complexity and nature to the Works.

15.2 Joint and several liability

Where the Contractor comprises more than one entity:

(a) each entity is bound severally; and

(b) any two or more entities are bound jointly,

and all the entities comprising the Contractor shall have joint and several liability for each and every obligation of the Contractor under the Contract.

16. Access to Site

16.1 Access

(a) On and from the Effective Date, the Company will grant to the Contractor access to the Site reasonably required to enable it to perform the Works, subject to the Company's site access policies.

(b) The Contractor must give the Company Representative at least [5] Business Days' notice before commencing the Works on the Site. Except as is necessary having regard to the Works Plan or otherwise approved by the Company under clause 16.2(b), the Contractor must not interfere with the Company's existing operations on or adjacent to the Site.

16.2 Contractor obligations

(a) Prior to commencement of the Works on the Site, the Contractor must notify the Company Representative of its normal times and periods of work and must give the Company Representative at least [24] hours' notice of any alteration in its working hours or periods of work.

(b) The Contractor must at all times consult with the Company Representative and give at least [10] Business Days' prior notice to any action likely to interfere with the Company's operations. The Company Representative must reply to any such notice within [5] Business Days, either allowing or rejecting the action likely to interfere with the Company's operations.

16.3 Delayed or suspended access

If there is any delay in giving the Contractor access to the Site or if access is suspended or inadequate (where such delay or suspended or inadequate access was not caused or contributed to by an act, omission, breach or default of the Contractor, its Personnel or Subcontractors), the Contractor may apply for an extension of time in accordance with clause 24.2.

16.4 No exclusive possession

The Contractor agrees that nothing in the Contract confers on it exclusive possession of the Site and that it will only be granted access to the Site to the extent deemed necessary by the Company Representative for the performance of the Works.

17. Design development

[Note: relevance to be confirmed on a case-by-case basis. Different degrees of complexity can be managed in the definition of "Reviewable Design Documentation" and the requirements of the Scope of Works.]

17.1 Design Obligations

The Contractor must, using Best Industry Practice, carry out and complete the Design Obligations in accordance with the Contract.

17.2 Design warranty

The Contractor warrants that it takes full responsibility for every aspect of the Final Design Documentation and has used and will continue to use, Best Industry Practice to ensure that:

(a) the Final Design Documentation will be:

(i) proper, adequate and suitable for the purposes for which the Works are intended to be used;

(ii) consistent with Best Industry Practice; and

(iii) capable of complying with all relevant laws and the requirements of all Government Agencies.

(b) there will be no ambiguities, discrepancies, errors, inconsistencies or omissions in and between any part of the Final Design Documentation;

(c) all Deliverables are provided in the format or formats requested by the Company Representative, including in native format (including AutoCAD);

(d) the design of the Works will be such that when constructed, the Works will be fit for their intended purpose; and

(e) construction of the Works in accordance with the Final Design Documentation will satisfy the requirements of the Contract.

17.3 Reviewable Design Documentation

(a) The Contractor must prepare and submit the Reviewable Design Documentation to the Company in accordance with the Program. *[Note: if there are Design Obligations, the Program must include submission dates for the design documentation]*

(b) Within [10] Business Days of receipt of an item of Reviewable Design Documentation, the Company will notify the Contractor if the Company:

(i) accepts the Reviewable Design Documentation in which case it will form part of the Final Design Documentation; or

(ii) rejects the Reviewable Design Documentation in which case:

(A) the Company will give reasons for the rejection; and

(B) the Contractor will:

(I) revise the Reviewable Design Documentation to take into account the Company's reasons for rejecting the Reviewable Design Documentation; and

(II) within [10] Business Days (or such longer time as the Company may agree) resubmit the Reviewable Design Documentation and this clause 17.3(b)will apply again.

(c) The Parties agree that the Company is entitled to reject any Reviewable Design Documentation if as a result of the design, the Company would be required to obtain:

(i) an Approval; or

(ii) the consent of a third party,

and the Company cannot, or believes it will not be able to, obtain the required Approval or consent.

(d) Unless the Company otherwise agrees, the Contractor must not proceed with the Works or the relevant part of the Works until the Company has notified the Contractor that it accepts all the Reviewable Design Documentation.

18. Works Provisions

18.1 General obligations

The Contractor must, using Best Industry Practice, carry out and complete the Works:

(a) in accordance with:

(i) the Contract; and

(ii) the Works Plan,

(b) using materials of a nature specified in the Contract [or the Final Design Documentation,] *[Note: delete if no Design Obligations.]* and in the absence of any specific description, then using new materials of high quality and fit for their intended purpose;

(c) so that:

(i) the Works comply with all Approvals and the requirements of any Government Agency, all laws and all relevant Australian Standards;

(ii) upon Practical Completion, the Works are fit for their intended purpose as reasonably inferable or ascertainable from the Contract; and

(d) at all times ensuring that it does not do, or does not omit to do, anything which endangers public health and safety in, adjacent to and proximate to the Site.

18.2 Risk

Until the Practical Completion Date, the Contractor:

(a) bears the risk of all damage or destruction of the Works and the Contractor's equipment; and

(b) enters and occupies the Site at its risk.

18.3 Site Conditions

(a) The Contractor must satisfy itself that the Site is adequate and suitable for the purposes of undertaking, completing and commissioning the Works.

(b) The Contractor warrants that it has, and is deemed to have, done everything that would be expected of a prudent, competent and experienced contractor to assess the risks associated with the Contract including having:

(i) carefully examined the Site and its surroundings and fully informed itself as to the means of access to the Site and facilities at or in the vicinity of the Site; and

(ii) thoroughly investigated and satisfied itself as to the local and other conditions affecting performance of its obligations under the Contract, including meteorological, geological, labour, accommodation, fuel, power, water and transport conditions;

(c) If the Site is not suitable for the purposes of undertaking, completing and commissioning the Works, as a result of any Site Condition or any condition adjacent to the Site that is apparent or would have been apparent to a contractor exercising Best Industry Practice, the Contractor must ensure that it is made so adequate and suitable.

(d) The Company makes no representation and gives no warranty to the Contractor (including suitability of any Site) and the Contractor accepts all risks, arising from, in relation to, for or in connection with:

(i) the Site and the Site Conditions;

(ii) any structure or other thing in, on, above, adjacent to or under the surface of the Site; and

(iii) the existence, location, condition or availability of any utility infrastructure at the Site.

(e) The Contractor will have no Claim against the Company arising from, in respect of, in relation to or in connection with any of the matters detailed in this clause 18.3 and indemnifies the Company against any Liability arising from, in respect of, in relation to or in connection with any of them.

18.4 Setting out

(a) The Contractor is responsible for the true and proper setting-out of the Works including in relation to bench marks, reference marks and lines.

(b) If, at any time during the progress of the Works, any error appears in the position, level or alignment of the Works, the Contractor must notify the Company Representative of the error and, at its own expense, immediately rectify the error to the reasonable satisfaction of the Company Representative.

18.5 Supervision and labour

(a) The Contractor must ensure that:

(i) all necessary supervision is given during the performance of the Works by supervisory staff who are competent to give adequate supervision to the work they are required to supervise;

(ii) a site manager is available at all times to manage the performance of the Works.

(b) The Contractor must provide and must employ Personnel who are skilled and experienced in their respective roles.

(c) The Contractor is responsible for:

(i) the recruitment, transportation, accommodation, catering and payment of all labour required for the performance of the Works. The Contractor is deemed to have made itself aware of the availability of labour resources for or in connection with the Works to avoid any delays to the Works; and

(ii) obtaining all necessary permits or visas from the appropriate authorities for the entry into the country where the Works are to be performed of all labour and personnel to be employed in connection with the Works. The Company will provide reasonable assistance to the Contractor in this regard.

(d) The Contractor is, at its own expense, responsible for the repatriation of all its and its Subcontractors' expatriate personnel employed upon the Works to the countries from which they were recruited. The Contractor is responsible for the suitable maintenance of those persons from the cessation of their employment on the Works to their departure and, if in default, the Company may repatriate and maintain those persons. The amount paid by the Company in so doing is a debt due and payable on demand by the Contractor to the Company.

(e) The Contractor must, at all times during the progress of the Works, use its best endeavours to prevent:

(i) any unlawful, riotous or disorderly conduct or behaviour by or amongst its employees and the labour of its Subcontractors.

(ii) the consumption of alcohol on Site and the use of illegal or unlawful drugs by or amongst its Personnel and its Subcontractors' Personnel.

18.6 Construction Equipment

(a) All Construction Equipment brought onto the Site by the Contractor must be used exclusively for the performance of the Works. The Contractor must as soon as reasonably practicable remove from the Site all Construction Equipment which is no longer required for the performance of the Works.

(b) The Contractor must, upon request by the Company Representative, notify the Company Representative of the name and address of the owner of any On-Hire Construction Equipment. The Company may, in order to avoid seizure by the owner of any On-Hire Construction Equipment, pay to the owner of such On-Hire Construction Equipment the amount of any rent, overdue instalment or other sums payable under the applicable rental agreement. The amount paid by the Company in so doing is a debt due and payable on demand by the Contractor to the Company.

18.7 Site Regulations and Safety

The Contractor must ensure that its employees, all Subcontractors and any visitors comply with the Site regulations as set out in the Works Plan.

18.8 Emergency Work

(a) If, by reason of an emergency arising in connection with and during the performance of the Works, any protective or remedial work is necessary as a matter of urgency to prevent:

(i) damage to the Works or the Environment; or

(ii) possible injury to persons employed upon the Site,

the Contractor must immediately perform that work.

(b) If the Contractor is unable or unwilling to do protective or remedial work described in clause 18.8(a) immediately, then the Company may perform that work and the costs incurred by the Company as a result is a debt due and payable on demand by the Contractor to the Company.

18.9 Site Clean-up

At all times the Contractor must keep the Site free from all unnecessary obstruction and must store or promptly remove any surplus materials, clear away from the Site any wreckage, rubbish or temporary works including any required environmental clean-up due to any fuel or chemical spills, caused by its performance of the Works.

18.10 Site Security and preservation

Until Practical Completion, the Contractor must:

(a) provide and maintain at its own expense all lighting, fencing and security when and where necessary for the proper performance and the protection of the Works and the safety of the Company, occupiers of adjacent property and the public;

(b) protect and secure the Works against weather and trespassers;

(c) treat, seal and cover all surfaces of the Works to prevent deterioration, having regard to Best Industry Practice; and

(d) make all the Works safe.

18.11 Fire and safety precautions

Until Practical Completion, the Contractor must ensure that:

(a) any fire rating requirements of the Department of Fire and Emergency Services relating to the Site are complied with to the satisfaction of the Department of Fire and Emergency Services; and

(b) fire precautions within the Site are maintained in accordance with the requirements of the Company, the Department of Fire and Emergency Services and any other Government Agency.

18.12 Third Party Utilities

The Contractor must, prior to commencing any Works:

(a) make enquiries as to, and identify, the location of any Third Party Utilities;

(b) notify the relevant owner, user or person responsible for any Third Party Utilities;

(c) liaise with the relevant third party regarding potential relocation or protection of those Third Party Utilities before undertaking any works in the vicinity of those Third Party Utilities; and

(d) if required by the relevant third party:

(i) relocate those Third Party Utilities at the Contractor's cost and expense to an area within or outside the Site; and

(ii) grant, at the Contractor's cost, a licence in favour of the relevant third party or other appropriate person,

on terms and conditions which ensure the continued and uninterrupted use of and access by the relevant third party to those Third Party Utilities.

18.13 Observance of restrictions on Certificates of Title

At all times the Contractor must observe and perform the restrictions, stipulations, easements and covenants (if any) referred to in the Certificate(s) of Title in respect of the Site as if it were the party subject to the restriction, stipulation, easement or covenant.

19. Inspections and opening up

(a) At all reasonable times when the Works are being carried out, the Company and persons authorised by the Company may enter any part of the Site or any other location where any part of the Works are being carried out:

(i) to inspect the Works;

(ii) to ascertain:

(A) compliance with the Contract by the Contractor; or

(B) any matter in respect of which the Contractor is required to report to the Company under the Contract.

(b) If the Company wants to enter the Site and inspect the Works or any other location where any part of the Works are being carried out:

(i) the Company must give prior notice;

(ii) the Contractor or the Contractor's Representative may accompany the Company; and

(iii) the Company must comply with any reasonable requirement in relation to Site safety of the Contractor and in undertaking the inspection must not interfere with or disrupt any work being undertaken by the Contractor.

(c) Without affecting the application of any other provision of the Contract, at any time prior to the Practical Completion Date, if the Company Representative believes that any part of the Works is defective, the Company Representative may, by notice, require the Contractor to open up that part of the Works to allow inspection of that part of the Works.

(d) If any inspection under clause 19(c) demonstrates that the part of the Works inspected is defective, the Contractor must rectify and make good such Defect at no cost or expense to the Company and the Contractor is not be entitled to any extension of time in relation to such rectification and making good.

(e) If any inspection under clause 19(c) demonstrates that the part of the Works inspected are not defective:

(i) any delay caused by that inspection may apply for an extension of time in accordance with clause 24.2; and

(ii) the Company will pay to the Contractor its costs and expenses associated with the opening up of the Works and any works required to rectify the works opened up.

(f) Without affecting the application of any other provision, the Parties acknowledge that:

(i) any inspection under this clause 19 does not in any way affect any obligations of the Contractor under the Contract; and

(ii) any decision to inspect or not inspect under this clause 19 or any consequence of any inspection, does not affect the rights or remedy of the Company under any other provision of the Contract.

20. Practical Completion

[Note: provisions subject to further development]

20.1 Timing for completion of the Works

The Contractor must undertake and complete the Works and otherwise discharge the obligations imposed on the Contractor in respect of the Works so as to ensure that the Practical Completion Date occurs on or before the Date for Practical Completion

20.2 Completion Plan

(a) The Contractor must, in accordance with the Program and the Works Plan, prepare a detailed plan setting out the process and requirements for achieving and evidencing Practical Completion(**Completion Plans**). [*Note: the Works Plan must include the*

parameters for these "completion plans" and the Program to detail when they must be submitted.]

(b) A draft completion plan, must be suitable and appropriate for the Works and:

(i) [*insert technical requirements*];

(ii) include a schedule of all relevant tests and inspections to be carried out and anticipated dates for those tests and inspections; and

(iii) [*insert any other requirements*].]

(c) The Company will review each draft completion plan and within [10] Business Days:

(i) accept the draft project completion plan, in which case it will be the relevant Completion Plan; or

(ii) reject the draft completion plan and provide the Contractor with any required amendments, in which case:

(A) the Contractor must, within [5] Business Days amend and submit to the Company the draft completion plan; and

(B) this clause 20.2(c) will apply again.

(d) The Contractor must comply with the Completion Plan.

20.3 Tests and inspections

(a) The Contractor must give the Company not less than [10] Business Days' notice of all tests and inspections that are to be carried out as part of Practical Completion.

(b) Each test and inspection must be conducted in accordance with the Contract and the Completion Plan. The Contractor must allow the Company and any invitees of the Company to attend any tests and inspections.

(c) After completion of each test, the Contractor shall provide to the Company the raw data and completed results of the tests. The Contractor warrants the accuracy of such raw data and of the conversion of such raw data into test results.

20.4 Practical Completion

(a) **Practical Completion** shall be achieved upon the satisfaction of the following conditions:

(i) the Works have been completed in accordance with the Contract except for minor defects or omissions which do not prevent the Works from being used for their intended purpose;

(ii) those tests and inspections which are required by the Contract to be carried out and passed before the Works can be used for their intended purpose have been carried out and passed;

(iii) the Works [are able to be occupied and operated safely and otherwise] comply will all laws and Approvals;

(iv) the Contractor shall have delivered to the Company all Deliverables and Records required to be delivered, including copies and details of all warranties and warranty documents required under the Contract and if required, a full set of as-constructed drawings;

(v) Unless otherwise agreed by the Company the Contractor has:

(A) removed from the Site any wreckage, rubbish and debris of any kind, tools, equipment, machinery and surplus materials not part of the Works;

(B) left the Site in a clean and safe condition; and

(C) removed from the Site all remaining Construction Equipment brought on to the Site by the Contractor; and

(vi) the Contractor shall have timely paid all previously invoiced, undisputed Delay Liquidated Damages; and

(vii) all other requirements for Practical Completion set out in the Scope of Works, Works Plan or Completion Plan have been satisfied,

(**PC Conditions**).

(b) When the Contractor forms the view that the PC Conditions have been satisfied, the Contractor shall deliver a written notice to the Company signed by Contractor Representative certifying that the PC Conditions have been satisfied.

(c) Within [10] Business Days of the receipt of a notice under clause 20.4(b), the Company will either:

(i) notify the Contractor that the PC Conditions have not been fully satisfied and detail any work which must be undertaken and completed, or any Defects that must be rectified and made good in order for the Contractor Works to achieve Practical Completion and clauses 20.4(a)-20.4(c) will apply again; or

(ii) deliver a certificate to the Contractor certifying that all of the PC Conditions have been fully satisfied, in which case Practical Completion will be deemed to have occurred as of the date of the certificate (**Practical Completion Date**).

(d) For the sole purpose of determining the Contractor's obligations to pay Delay Liquidated Damages, subject to a certificate being issued under clause 20.4(c)(ii), Practical Completion shall be deemed to have occurred as of the date of the Contractor's notice under clause 20.4(b).

(e) Upon Practical Completion care, custody, control, operation, and risk of loss of the Works shall pass to the Company.

21. Defects

21.1 Contractor to remedy Defects

(a) During the undertaking and completion of the Works, the Contractor must rectify and make good any Defect as soon as practicable after becoming aware of that Defect.

(b) As soon as possible after the Practical Completion Date, the Contractor must rectify and make good any Defect existing as at the Practical Completion Date.

(c) During the relevant Defects Liability Period the Contractor must rectify and make good any Defect as soon as practicable after:

(i) becoming aware of the Defect; or

(ii) the Company notifying the Contractor of the Defect.

(d) The Contractor must, when undertaking and completing any work to rectify and make good any Defect, comply with its obligations under the Contract.

21.2 Costs of remedying Defects

(a) The Contractor:

(i) may include in its Payment Claims under clause 33 its Allowable Costs for remedying Defects other than Fabrication Defects; and

(ii) is not entitled to include in its Payment Claims under clause 33 any:

(A) costs associated with Fabrication Defects;

(B) Margin associated with remedying Defects other than Fabrication Defects.

(b) The Contractor is not entitled to Claim payment of any Margin for the remediation of Defects.

(c) The costs of remedying Defects will not result in an adjustment to the Target Outturn Cost.

21.3 Consequential damage

The Contractor must, at its cost, rectify and make good any damage to the Works, the Company's property, any third party property, or the Site arising from any Defect, including any consequence of any Defect or the rectification and making good of any Defect.

21.4 Certificate in relation to Defects

(a) Within [20] Business Days after the expiry of the final Defects Liability Period, the Contractor must request the Company to prepare and issue to the Contractor a certificate stating that, in the opinion of the Company:

(i) there are no Defects; and

(ii) all Defects identified in the Works have been, and continue to be rectified and made good.

(b) If the Company determines that all Defects in the Works:

(i) have been rectified and made good, the Company must issue to the Contractor a certificate stating that determination (**Final Works Certificate**); or

(ii) have not been rectified and made good:

(A) the Company must give to the Contractor a notice detailing all Defects to be rectified and made good; and

(B) the Contractor must rectify and make good all of the Defects detailed in the notice as soon as practicable and this clause 21.4 will apply again.

(c) The issue of a Final Works Certificate by the Company does not:

(i) constitute evidence that all Defects have been rectified and made good by the Contractor;

(ii) constitute evidence that the Contractor has complied with its obligations under the Contract; and

(iii) prevent the Company, on or after the issue of such a certificate, from making any claim against the Contractor in relation to any breach of the Contract by the Contractor.

21.5 Rectification and making good by the Company

(a) If the Contractor does not rectify and make good any Defect in accordance with this clause 21 and that Defect is materially impacting the Works or the Project generally, the Company may undertake and complete any work that the Company considers appropriate to rectify and make good that Defect.

(b) Any costs or expenses incurred by the Company in rectifying and making good that Defect are a debt due and payable on demand by the Contractor to the Company.

22. Liquidated Damages

22.1 Delay Liquidated Damages

(a) If the Practical Completion Date does not occur on or before the Date for Practical Completion, the Contractor must pay to the Company as liquidated damages for each day of delay:

(i) from and including the Date for Practical Completion; and

(ii) to and including the Practical Completion Date,

an amount $[*insert*] per day (**Delay Liquidated Damages**).

(b) Unless and until the Contractor has paid the Delay Liquidated Damages due and owing, under clause 22.1(a), the Company is not required to make any payments associated with achieving Practical Completion.

(c) The Contractor's liability for Delay Liquidated Damages shall not exceed in the aggregate an amount equal to [XX%] percent of the Target Outturn Cost.

22.2 Nature of damages

The Parties:

(a) agree that the amount of the liquidated damages in clause 22.1 constitute reasonable and genuine pre-estimates of the anticipated or actual loss or damage that will be incurred by the Company as a result of the Contractor failing to achieve the Practical Completion Date on or before the date set out in the Program;

(b) desire to avoid the difficulties of proving damages in connection with such failure and agree that the amount of liquidated damages payable by the Contractor in accordance with this clause are reasonable and do not constitute nor are they intended to be a penalty;

(c) agree that if clause 22.1 is found for any reason to be void, invalid or otherwise inoperative so as to disentitle the Company from recovering liquidated damages, the Company may recover common law damages as a result of the Contractor failing to (as applicable) achieve the Practical Completion Date on or before the date set out in the Program;

(d) agree that the payment of liquidated damages under clauses 22.1 shall not limit the Contractor's liability for any other breach of the Contract.

23. Variations

23.1 General

(a) The Contractor must not vary the Works except in accordance with this clause 23.

(b) Any Variation, not directed or approved in writing by the Company Representative, will be considered as unauthorised and shall be at the sole risk and cost of the Contractor, including any costs to correct or remedy the same.

(c) If as a result of a Variation, any part of the Works are deleted or omitted from the Contact

(i) the Company may, without being in breach of the Contract, perform or engage another contractor to perform the whole or any part of the deleted or omitted Works; and

(ii) the Target Outturn Cost may be reduced in accordance with this clause 23.

(d) No Variation will invalidate the Contract.

(e) The Contractor's reasonable and actual costs incurred in responding to a Variation Notice under clause 23.3 or a Variation Order 23.4 shall be reimbursed by the Company.

23.2 Directions of the Company

(a) If the Company gives a direction which the Contractor reasonably considers constitutes a Variation then the Contractor must notify the Company within [5] Business Days of the giving of the direction, stating that it considers that compliance with the direction would constitute a Variation and giving reasons for its belief.

(b) Strict compliance with this clause is a condition precedent to any entitlement of the Contractor to make a Claim in respect of the direction.

(c) The Company must, within [10] Business Days of receipt of a notice under clause 23.2(a) notify the Contactor:

(i) if it agrees with the Contractor and wants to proceed with the Variation, in which case the Company will issue a Variation Notice under clause 23.3;

(ii) if it agrees with the Contractor but does not want to proceed with the Variation, in which case the Company will withdraw the direction; or

(iii) if it does not agree that the direction constitutes a Variation, in which case the Company will provide reasons for its belief and the Contractor must comply with the direction.

23.3 Variations proposed by the Company

(a) The Company may, at any time, notify the Contractor of a proposed Variation which the Company is considering (**Variation Notice**). A Variation Notice must set out full details of the proposed Variation.

(b) Within [10] Business Days of the receipt of a Variation Notice, the Contractor must, using Best Industry Practice, provide the Company with a proposal:

(i) setting out the effect the proposed Variation will have on:

(A) the Program; and

(B) the Target Outturn Cost;

(ii) responding to any other matters reasonably requested by the Company; and

(iii) which includes any other information considered relevant by the Contractor,

(**Variation Proposal**).

(c) The Company will review the Variation Proposal and within [10] Business Days:

(i) accept the Variation Proposal, in which case the Contractor must proceed to implementing the Variation in accordance with the Variation Proposal; or

(ii) reject the Variation Proposal and provide the Contractor with reasons for the rejection, in which case:

(A) the Contractor must, within [5] Business Days amend and submit to the Company the Variation Proposal; and

(B) this clause 23.3(c) will apply again,

or:

(C) the Company may issue a Variation Order under clause 23.4(a).

23.4 Variation Order

(a) Whether or not the Company has issued a Variation Notice and the Contractor has provided a Variation Proposal, the Company may at any time instruct the Contractor to carry out a Variation by a written document titled Variation Order.

(b) A Variation Order must set out full details of the proposed Variation, including the effect it will have on sett out the effect the proposed Variation will have on:

(i) the Program; and

(ii) the Target Outturn Cost;

(c) Within [10] Business Days of the receipt of a Variation Order, the Contractor must:

(i) accept the Variation Order, in which case the Contractor must proceed to implementing the Variation in accordance with the Variation Order; or

(ii) reject the Variation Order and provide the Company with reasons for the rejection, in which case the Company may:

(A) amend and reissue the Variation Order, and this clause this clause 23.4(b) will apply again; or

(B) instruct that the Contractor proceed with the Variation Order in any event, in which case:

(I) the Contractor must proceed to implementing the Variation in accordance with the Variation Order; and

(II) if necessary, the Variation will be valued under clause 23.4(e).

(d) If a Variation Notice has been submitted under clause 23.2, and the Company does not accept the Variation Proposal provided in response, the Company must advise the Contractor accordingly and if the Company issues a Variation Order in respect of that Variation, the Variation will be valued under clause 23.4(e).

(e) If the Parties are unable to agree a valuation for a Variation as set out in a Variation Order:

(i) the Company will determine the valuation based on the applicable rates and prices set out in Schedule 6 (if any); or

(ii) if there are no applicable rates and prices set out in Schedule 6, the Company will determine a valuation based on reasonable rates and prices.

23.5 Variations proposed by the Contractor

(a) The Contractor may, by notice to the Company, propose that a Variation be carried out (**Variation Notice**).

(b) The Contractor must, using Best Industry Practice, provide with a Variation Notice provided under clause 23.5(a) a proposal:

(i) setting out full details of the proposed Variation and the effect the proposed Variation will have on:

(A) the Program; and

(B) the Target Outturn Cost; and

(ii) which includes any other information considered relevant by the Contractor,

(**Variation Proposal**).

(c) The Company will review the Variation Proposal and within [10] Business Days:

(i) accept the Variation Proposal, in which case the Contractor must proceed to implementing the Variation in accordance with the Variation Proposal; or

(ii) reject the Variation Proposal and provide the Contractor with reasons for the rejection.

23.6 Claims

Despite any other provision of the Contract to the contrary, the Contractor shall not be entitled to any Claim to the extent a Variation:

(a) is of a minor or trivial nature or does not materially alter the type or extent of, or delay the provision of, the Works; or

(b) is required due to:

(i) any Defect or the rectification of any Defect;

(ii) the Contractor being in breach of the Contract;

(iii) a request by the Contractor for a variation for its own convenience or to enable the Contractor to comply with its obligations under the Contract;

(iv) any negligent or unlawful act or omission of the Contractor or its Personnel; or

(v) the Company sourcing Alternative Services under clause 24.3.

24. Program and relief events

24.1 Adherence to Program and progress reporting

(a) The Contractor must perform the Works in accordance with the Program. The Contractor acknowledges that the Company Representative will rely upon the Program in coordinating other work at the Site and elsewhere.

(b) Progress reporting must be carried out in accordance Schedule 6.

(c) The Company may request that the Contractor prepare and submit a proposal (**Acceleration Proposal**) to the Company within [10] Business Days of the request to accelerate the performance of the Works, which may require the Contractor to:

(i) work overtime including night shifts, Saturdays, Sundays and holidays;

(ii) furnish additional labour, supervision and equipment; and

(iii) expedite the procurement or the manufacture of any goods.

(d) The Company will review the Acceleration Proposal and within [10] Business Days direct the Contractor to either carry out the Acceleration Proposal or not.

(e) The Contractor will not be entitled to any additional costs if it is required to carry out an Acceleration Proposal to overcome delay by the Contractor.

24.2 Adjustments to the Program and Target Outturn Cost

(a) If at any time the Contractor, applying Best Industry Practice becomes aware that despite all reasonable steps having been taken, it will be delayed in delivering Practical Completion by the Date for Practical Completion or meeting the Target Outturn Costs due to:

(i) a breach of any provision of the Contract by the Company;

(ii) Force Majeure;

(iii) a suspension of the Works (other than such suspension in respect of which the Contractor is not entitled to any Claim under clause 26.5);

(iv) a delay or suspension in access to the Site as outlined in clause 16.3;

(v) the Company's failure to effect or maintain the insurances required by clause 42;

(vi) subject to the Contractor's compliance with the Contract, a delay caused by the unreasonable interference by another supplier, contractor (or their personnel) engaged by the Company;

(vii) a change after the date of the Contract to the Company Policies and Standards which the Contractor is required to comply with;

(viii) a Best for Project Decision;

(ix) a Variation; or

(x) a Change of Law,

the Contractor:

(i) must as soon as practicable (and in any event within 5 Business Days) notify the Company of the delay or likely delay and an estimate of any impact on the Target Outturn Cost; and

(ii) may apply for an extension of time and/or an adjustment to the Target Outturn Cost.

(b) Any notice issued under clause 24.2(a) must include detailed reasons for the application which clearly establish the delay in question, its cause and the claimed:

(i) extension of time; and

(ii) adjustment to the Target Outturn Cost,

as applicable.

(c) The Contractor's strict compliance with clauses 24.2(a) and 24.2(b) will be a condition precedent to any entitlement the Contractor may have to an extension of time or adjustment to the Target Outturn Cost.

(d) The Contractor will not be entitled to an extension of time, or adjustment to the Target Outturn Cost:

(i) to the extent the event in clause 24.2(a) was caused or contributed to by the Contractor, including;

(A) due to any Defects;

(B) the Contractor being in breach of the Contract or any negligent or unlawful act or omission of the Contractor or its Personnel;

(ii) in the case of a Claim for an extension of time if the Contractor cannot demonstrate to the Company's reasonable satisfaction that the event has delayed or will delay the critical path to Practical Completion as shown on the Program; and

(iii) if the Contractor fails to:

(A) take all proper and reasonable steps to mitigate the impact of the event in clause 24.2(a); and

(B) make the Claim within [10] Business Days after the Contractor first became aware or ought reasonably to have become aware of the event in clause 24.2(a); or

(iv) where a Claim is for the Contractor's own convenience or to enable the Contractor to comply with its obligations under the Contract.

(e) The Company may convene a meeting of the PMG and/or CMG to discuss the event, its implications for the Contractor and other contractors and possible mitigation strategies.

(f) The Company will act reasonably in its assessment of the contents of any Claim submitted under this clause 24.2.

(g) If the Contractor has in fact been delayed or will incur additional costs by any one or more of the circumstances set out in clause 24.2(a) and is otherwise entitled to make a Claim under the Contract the Parties will treat the event as a Variation Order except that:

(i) the Contractor's sole entitlement for any and all Claims arising from an event set out in clause 24.2(a)(ii) or 24.2(a)(vi) is an extension of time; and

(ii) where more than one event causes a concurrent delay and the cause of at least one of those delays is an event not referred to in clause 24.2(a) the Contractor shall not be entitled to an extension of time to the extent that those delays are concurrent.

(h) If the effects of delay continue beyond the period stated in an earlier notice and the Contractor wishes to apply for an extension of time in respect of that further delay, the Contractor must give the Company Representative a further notice containing the details required by this clause 24.2.

(i) Unless:

(i) the Contractor has applied for an extension of time or an adjustment to the Target Outturn Cost in accordance with this clause 24.2; and

(ii) the Company has granted an extension of time or an adjustment to the Target Outturn Cost,

the Contractor will not be relieved in any way or to any extent from its obligations to proceed with and complete the Works in accordance with the Program and the Target Outturn Cost.

(j) Despite the Contractor:

(i) not being entitled to; or

(ii) not applying for an extension of time,

the Company Representative may at any time and from time to time before issuing the Final Payment Certificate direct an extension of time in the Company Representative's absolute discretion and without being obliged to do so. This right is only to be exercised for the benefit of the Company.

(k) A Variation as contemplated under 24.2(e) is the Contractor's sole and exclusive remedy, and the Contractor has no further Claim, arising from or in connection with any of the events listed in clause 24.2(a).

24.3 Extensions to the [T3 C2 Payment Date]

[Note: commissioning payment provisions subject to further development.]

(a) Subject to clause 24.3(b), if an extension of time is granted under clause 23.2 as a result of:

(i) a breach of any provision of the Contract by the Company;

(ii) a Variation directed by the Company,

there will be an automatic adjustment to the [T3 C2 Payment Date] for every day of the extension.

(b) The maximum number of days by which the [T3 C2 Payment Date] can be extended is [60 days].

25. Alternative Services

(a) To the extent that the Contractor is unable to perform all or any part of the Works in accordance with the Contract for any reason (including Force Majeure), the Company may, in its absolute discretion and without prejudice to the Company's rights under the Contract or at law, source such part of the Works from any third party (**Alternative Services**).

(b) The omission of those Works will be deemed to be a Variation Order.

(c) The Contractor shall not be liable for any deficiencies in the Alternative Services.

26. Suspension of Works

26.1 Company's suspension

(a) The Company may, in addition to other rights and remedies of the Company at any time, in its absolute discretion and for its convenience direct the Contractor to suspend the carrying out of the whole or part of the Works for such time as the Company thinks fit.

(b) The Contractor must suspend the performance of the Service (in whole or in part) promptly on receipt of a direction under clause 26.1(a).

26.2 Contractor's suspension

If the Contractor wishes to suspend the carrying out of the whole or part of the Works, otherwise than under clause 48.1, the Contractor must obtain the Company Representative's prior written approval.

26.3 Recommencement

(a) The Contractor must recommence the Works suspended under clauses 26.1 or 26.2 as soon as reasonably practicable after the Company Representative requests the Contractor to do so in writing.

(b) The Contractor must recommence the Works suspended under clause 48.3(a) as soon as the reason for such suspension has passed.

26.4 Prolonged suspension

(a) If suspension of the whole or substantial part of the Works under clause 26.1 continues for more than [6] consecutive months, then the Company must either:

(i) terminate the Contract with effect from a specified date (no greater than [5] Business Days after the date of the notice) by notice to the Contractor; or

(ii) direct the Contractor to recommence the suspended Works as soon as reasonably practicable.

(b) Subject to clause 26.5(b) below, if the Company gives a notice under clause 26.4(a)(i), then such notice shall be treated as if it were a Termination Notice under clause 46.1 and the Contract was terminated under clause 45.3.

26.5 Claims

(a) Subject to clause 26.5(b) below, during the suspension period, the Contractor may claim costs reasonably incurred in complying with the Company's directions, provided such costs are pre-approved in writing by the Company Representative.

(b) The Contractor will not be entitled to any Claim in connection with a suspension where the suspension is:

(i) in the reasonable opinion of the Company, caused or contributed to by an act, default or omission of the Contractor, a Subcontractor or their Personnel; or

(ii) approved under clause 26.2.

27. Health and Safety

27.1 General

(a) In this clause 27, where the Contractor has an obligation to the Company, the Contractor's obligations will be to either the Company, or where a Principal Contractor has been appointed, to the Principal Contractor.

(b) The Contractor acknowledges its obligations in relation to the Site extend to any part of the Site the Contractor accesses, undertakes work on, or is control of, for the portion of time that the Contractor accesses, undertakes work or in control of that part of the Site.

(c) The Contractor acknowledges its obligations under this clause 27 operate concurrently with the safety obligations of other persons and operators on the Site. The Contractor agrees that it will make all reasonable efforts to communicate, consult and cooperate with the Company, the Company's Representative and any other duty holder to ensure that the health and safety of any person is not placed at risk.

27.2 Contractor's Responsibilities

(a) The Contractor must ensure that:

(i) it, and its Personnel, comply at all times with the requirements of all applicable OSH Legislation and must provide the Company on request with evidence (including any documents requested) that it, and its Personnel, are complying with applicable OSH Legislation;

(ii) it, and its Personnel do not create any risks to safety on the Site, including the means of entering and exiting from the Site, and anything arising from the Contractor's actions or omissions do not create risks to the health and safety of any person;

(iii) all plant, equipment and materials it, and its Personnel uses on the Site are used in accordance with the manufacturer's instructions and in a manner that does not create risks to the health and safety of any person;

(iv) any hazardous or dangerous substances it, or its Personnel uses on the Site will be handled, used and stored in accordance with OSH Legislation, the relevant standards, manufacturer's instructions and in a manner that is safe and without risks to health and safety;

(v) it has systems in place to identify, assess, control, eliminate (or if it is not possible to eliminate reduce so far as is reasonably practicable) and review risks and hazards at the Site and connected with the Works;

(vi) there are in place appropriate systems of work for the Works and that those systems of work are safe and without risk to health and safety and are reviewed and maintained as appropriate;

(vii) only appropriately experienced, skilled and qualified persons are engaged to carry out the Works;

(viii) appropriate information, instruction, training and supervision is provided for all its Personnel at the Site;

(ix) adequate facilities are provided for the welfare at work of its Personnel, including ensuring access to those facilities;

(x) it has in place and complies with a plan to monitor the health of its Personnel and the conditions at the Site to prevent illness or injury of persons arising from the Site and the Works. The plan will detail the method and frequency of monitoring;

(xi) it regularly conducts health, safety and security audits of the Works and the Site, retains copies of audit documents and promptly provides the Company, or the Company's representative with copies of such audit documents upon request; and

(xii) in its contracts with Subcontractors, the Contractor will retain for itself the ability to exercise full control over the activities of Subcontractors in relation to work health and safety matters. The must provide the Company on request with evidence (including any documents requested) that it, and its Personnel, are complying with applicable OSH Legislation and Site policies.

(b) No comment upon nor any review, acceptance or approval by the Company or its representatives of the Health and Safety Plan will affect any warranty or guarantee given by the Contractor or relieve the Contractor of any of its liabilities or obligations under the Contract.

(c) The Contractor must, and must ensure that its Personnel, comply with the relevant Company Policies and Standards and any site access policies.

(d) The Contractor must, and must ensure that its Personnel:

(i) comply with the relevant OSH Legislation, Site policies and applicable standards;

(ii) do not do anything or fail to do anything that would cause the Company, or the Company's Representative to be in breach of the applicable OSH Legislation; and

(iii) do all things reasonably required by the Company to assist the Company or the Principal Contractor in discharging any obligations they may have under applicable OSH Legislation in connection with the Site and the Works.

(e) The Contractor must, and must ensure that its Personnel, cooperate and do not unreasonably hinder the Company's or the Principal Contractor's access to the Site, Works, the Contractor's Personnel and relevant documentation where such access is reasonably requested or required:

(i) to comply with its obligations under applicable OSH Legislation; or

(ii) for the purpose of the Company or the Principal Contractor monitoring the compliance of the Contractor, or its Personnel, with its obligations under applicable OSH Legislation.

(f) The Contractor must notify the Company and the Principal Contractor immediately of any incident notifiable or reportable under applicable OSH Legislation connected with the Site or the Works. The Contractor must prepare a detailed incident investigation report and provide a copy of it to the Company and the Principal Contractor within 30 days of the relevant incident occurring. Each such incident investigation report must include details of the relevant facts, underlying causes, recommendations and remedial actions to be taken or improvements to be made.

(g) If the Company wishes to conduct its own incident investigation into any incident notifiable or reportable under applicable OSH Legislation connected with the Site or the Works the Contractor must, and must ensure that its Personnel, cooperate fully with the Company's incident investigation including by providing prompt information about, and access to, relevant documents and its Personnel.

(h) The Contractor must, and must ensure that its Personnel, comply with all lawful directions relating to health and safety issued by the Company, the Principal Contractor and any Government Agency.

(i) To the extent permitted by law, the Contractor indemnifies the Company from and against any damage, expense, loss, liability or claim suffered or incurred by or against the Company to the extent caused or contributed to by a breach by the Contractor of its obligations under this clause 27.

27.3 Health and Safety Plan

(a) The Contractor must, within 10 Business Days after the Commencement Date Date, submit its proposed health and safety plan for the Works (**Health and Safety Plan**) for review by the Company.

(b) No Works may commence at the Site unless and until the Health and Safety Plan has been reviewed and accepted by the Company.

(c) In preparing a draft health and safety plan, the Contractor must:

(i) have regard to and apply the relevant Company Policies and Standards and all applicable site access policies to the extent they are consistent with:

(A) Best Industry Practice; and

(B) clause 27.3(c)(ii); and

(ii) ensure the draft health and safety plan is suitable and appropriate for the Works.

(d) The Company or its Representative will review the draft health and safety plan and within 10 Business Days:

(i) accept the draft health and safety plan, in which case it will be the Health and Safety Plan; or

(ii) require the Contractor to amend the plan, in which case:

(A) the Contractor must, within 5 Business Days amend the draft health and safety plan; and

(B) this clause 27.3(d) will apply again.

(e) The Parties agree that by accepting the Contractor's health and safety plan, the Company is:

(i) reliant on the Contractor's expertise and representation that it has complied with 27.3(c); and

(ii) accepting only that the plan appears to contain the minimum required content and is not approving the contents of the plan.

(f) The Contractor must comply with the Health and Safety Plan.

(g) The or its Representative may at any time request the Contractor to amend the Health and Safety Plan to adequately reflect any amendments to the relevant Company Policies and Standards, any site access policies and any community relations policies.

(h) The Contractor must keep a copy of the approved Health and Safety Plan at its Site office or work area at all times while any work is being performed on the Site.

28. Industrial relations

(a) The Contractor shall be responsible for industrial relations in respect of all persons for whom it is responsible, but must not make any commitment to any person or union or employees organisation on any matter affecting or likely to affect the Works or the Project generally without consulting the Company Representative.

(b) The Contractor agrees it will ensure that all its Personnel and Personnel of its Subcontractors will be paid in accordance with the minimum applicable standards and rates of pay.

(c) The Contractor will maintain and provide on request by the Company, proper employee records as required by legislation.

(d) The Contractor agrees not to enter into any contract or agreement that would result in it, or its subcontractors paying employees or Personnel below the minimum required rates of pay. *[Note: Inclusion of a clause requiring an Industrial Relations Management Plan to be considered on a case by case basis having regard to the nature of the Works, to ensure that there is a consistent approach to industrial relations across the project.]*

29. Contractor Personnel

29.1 Contractor responsibilities

The Contractor is responsible for:

(a) the transportation of its Personnel to and from the Site and will provide for the movement of its Personnel on the Site at all times. All vehicles and drivers used for this purpose must be properly licensed and must comply with the requirements of any applicable road safety and traffic laws, legislation and regulations as well as all permits and approvals for transport of personnel;

(b) the supply of all labour, supervision, tools, equipment, materials, power, water, safety equipment and other requirements necessary for the Contractor to provide the Works in accordance with the Contract; and

(c) the health and safety of its Personnel.

29.2 Induction courses

(a) Each of the Contractor's Personnel must, at the Contractor's cost, attend all appropriate and relevant induction courses required by the Company or the Principal Contractor (**Site Induction Courses**).

(b) Any person visiting the Contractor on the Site to meet Personnel working on the Site, and who is not performing any type of manual work, will also be required to attend the relevant Site Induction Courses.

(c) Clause 26.5(b) will not apply if the visitor is accompanied at all times whilst on the Site by a person who has attended all relevant Company Induction Courses.

29.3 Contractor to remain liable

Nothing this clause 29 limits or removes any obligation or duty imposed on the Contractor or any of its Personnel (whether under the Contract or otherwise), including to secure or have regard to the health and safety of any of its Personnel.

29.4 Key Personnel

(a) The Contractor shall:

(i) ensure the Key Personnel are engaged in the carrying out of the Works;

(ii) only replace the Key Personnel in circumstances of death, serious illness, change of employer (other than to a Related Body Corporate of the Contractor) or with the prior written consent of the Company Representative; and

(iii) notify the Company Representative promptly of any circumstances where the Key Personnel will be required to be replaced. Such notice must include a nomination of the permanent replacement of the relevant Key Personnel that is required to be replaced, including a curriculum vitae for the nominated replacement.

(b) The Company Representative will, acting reasonably, notify the Contractor within 5 Business Days of a notice issued under clause 29.4(a)(iii) if:

(i) the nominated replacement is accepted; or

(ii) if the nominated replacement is not accepted, in which case the Contractor must propose an alternative replacement and this clause 29.4(b) will apply again.

(c) If the Contractor fails to replace any Key Personnel in accordance with this clause 29.4 the costs and expenses incurred by the Contractor in removing and relocating the relevant Key Personnel and engaging the replacement personnel shall be borne by the Contractor.

(d) Without prejudice to the remainder for this clause 29.4, for any Key Personnel that the Contractor reassigns to another project the Contractor must pay to the Company the sum of $50,000, payable on demand by the Company.

29.5 Right to deny access and removal from Site

Despite any other provision of the Contract, the Company or the Principal Contractor may, in its absolute discretion:

(a) deny the Contractor, the Contractor's Personnel or any other person access to the Site;

(b) require the Contractor, the Contractor's Personnel or any other person to leave the Site immediately; and

(c) require the Contractor to remove any material or substance giving rise to the breach from the Site at the Contractor's cost,

(d) and the Contractor must, at its own cost, ensure such request is immediately complied with and take all possible action to ensure the protection and safety of all works, personnel and the environment.

30. Environmental matters

30.1 Compliance with Environmental Laws and obligations

(a) In undertaking the Works, the Contractor must, and must ensure that its Personnel:

(i) comply with all Environmental Laws;

(ii) not do anything or fail to do anything that would cause the Company to be in breach of any Environmental Laws or might directly or indirectly result in the revocation, suspension or modification of any Approval;

(iii) have in place, and implement, an Environmental Management System;

(iv) comply with the relevant Company Policies and Standards;

(v) comply with any Environmental Notice issued in respect of, arising from, in relation to, in respect of or in connection with the use of the Site or the Works (whether the notice is served on the Contractor, the Company or the owner of the Site);

(vi) provide the Company with a copy of:

(A) any Environmental Notice served on the Contractor; and

(B) all documents relating to the Contractor's compliance with any Environmental Notice;

(vii) not cause any Contamination, Pollution or Environmental Harm to the Site or the Surrounding Area;

(viii) notify the Company as soon as reasonably practicable if, in the course of undertaking the Works:

(A) the Contractor or its Personnel becomes aware of the existence of any Contamination or Pollution affecting the Site;

(B) an incident occurs at the Site which is a potential non-compliance under an Approval issued under any Environmental Law;

(C) an incident occurs which could be, or is, a breach under an Environmental Law, including any potential Contamination, Pollution or Environmental Harm to the Site or the Surrounding Area;

(D) the Contractor becomes aware that a complaint has been made in relation to Contamination or Pollution of the Site or emanating from the Site; or

(E) any other breach of an obligation under this clause 30 occurs;

(ix) in the case where there has been an incident that is a potential breach or actual breach under any Environmental Law:

(A) provide the Company with a detailed written strategy that the Contractor intends to adopt for mitigating any environmental impacts and rectifying the potential breach or breach under the Environmental Law, as soon as reasonably practicable after the incident occurring;

(B) do all things necessary to implement the mitigation and rectification strategy at the cost of the Contractor;

(C) provide the Company with a report outlining the outcome of the mitigation and rectification strategy after it has been implemented and any other information reasonably requested by the Company; and

(D) do all things reasonably required by the Company to assist the Company in discharging any obligations the Company may have under Environmental Law.

(b) The Company is responsible for notifying a Government Agency of an incident under any Environmental Law.

(c) The Contractor must, and must ensure that its Personnel, cooperate and not unreasonably hinder the Company's access to the Site, the Works and relevant documentation where such access is reasonably requested or required by the Company:

(i) to comply with its own obligations under applicable Environmental Laws; or

(ii) for the purpose of the Company monitoring the compliance of the Contractor, or its Personnel, with its obligations under applicable Environmental Laws.

(d) If the Contractor fails to comply with any of its obligations in this clause 30, the Company may have the Contractor's obligations carried out by the Company or by others and the cost incurred by the Company in having those obligations carried out will be a debt due from the Contractor to the Company.

30.2 Liability for Contamination and Pollution

(a) The Contractor is responsible for all Post Contamination or Pollution of, on under, in or emanating from the Site which is in any way caused or contributed to by the Contractor or the Contractor's Personnel.

(b) The Contractor is not responsible for any Prior Contamination.

(c) If the Contractor or the Contractor's Personnel have in any way caused or contributed to, any Post Contamination or Pollution of, on, under, in or emanating from the Site, the Contractor must, at its own cost, undertake all necessary Remediation of all such Post Contamination or Pollution to:

(i) a standard that complies with all applicable laws and requirements of Government Agencies so that the Contamination or Pollution does not present a risk of harm to the Environment; and

(ii) the reasonable satisfaction of the owner of the Site.

(d) The Contractor must provide the Company with any information held or controlled by the Contractor relating to any Post Contamination or Pollution of, on, under, in or emanating from the Site, including all environmental assessment reports.

30.3 Notice to rectify breach of Environmental Laws

(a) Where the Company considers that there is a potential breach or breach by the Contractor or its Personnel under any Environmental Law, a failure by the Contractor or its Personnel to comply with an Environmental Notice or a failure to Remediate any Contamination or Pollution of, on or emanating from the Site, the Company may give the Contractor a notice to rectify the potential breach, breach, or failure.

(b) In giving a notice under clause 30.3(a), the Company will, to the extent it is reasonable to do so, take into account the strategy for mitigating any environmental impacts and rectifying the potential breach or breach under the Environmental Laws provided by the Contractor under clause 30.1(a)(ix)(A) and the report provided by the Contractor under clause 30.1(a)(ix)(C).

(c) The notice given by the Company to the Contractor under clause 30.3(a) may require the Contractor to take any action that the Company considers necessary to comply with Environmental Laws.

(d) The Company may, at its absolute discretion, request that the Contractor obtain, at its cost, a report prepared by a suitably qualified independent expert that details compliance with the notice issued by the Company to the Contractor under this clause 30.3.

30.4 Provision of environmental records

The Contractor must maintain accurate records regarding its environmental performance in undertaking the Works and promptly provide to the Company any information that the Company requests, in its absolute discretion, regarding the Contractor's compliance with Environmental Laws, including all applicable Approvals and any internal or external environmental audit reports.

30.5 Environmental indemnity

To the extent permitted by law, the Contractor indemnifies the Company from and against any damage, expense, loss, Liability or claim suffered or incurred by or against the Company as a result of, or in connection with:

(a) any Post Contamination, Pollution or Environmental Harm of the Site or the Surrounding Area; or

(b) a breach by the Contractor of its obligations under this clause 30.

31. Target Outturn Cost

(a) The Contractor agrees that the Target Outturn Cost:

(i) includes costs, expenses, fees and charges (including Taxes) estimated to be incurred by the Contractor in performing all its obligations under the Contract; and

(ii) includes the Contractor's profit, attendance, preliminaries, Site allowances, supervision, on-Site overheads, off-Site overheads in connection with the performance of all of its obligations under the Contract.

(b) The Contractor is deemed to have satisfied itself as to every condition and circumstance which may affect the Target Outturn Cost and determined its rates and any estimates accordingly.

(c) The Target Outturn Cost will not be adjusted:

(i) unless expressly permitted under the Contract; or

(ii) without the written approval of the Company Representative.

(d) the Contractor must promptly notify the Company if:

(i) the Contractor, at any time, has reason to believe that the Actual Outturn Cost will exceed the Target Outturn Cost; and

(ii) there are any issues in connection with the Works which may affect the correctness and completeness of the Target Outturn Cost.

(e) The Contractor agrees that at such reasonable times directed by the Company Representative, the Contractor must provide:

(i) up to date [expenditure forecasts], detailing the changes from the previous [expenditure forecasts] and the reasons for the changes;

(ii) detailed comments on any issues in connection with the Works which may affect the correctness and completeness of the Target Outturn Cost; and

(iii) details of what measures the Contractor proposes to use, or recommends that the Company uses, to remedy any adverse impacts on the Actual Outturn Cost and to minimise any further adverse impacts on to the Actual Outturn Cost; and

32. Not Used

33. Payments to Contractor

[Note: subject to further development]

33.1 Payment of Allowable Costs and Margin

(a) The Company must pay the Contractor the Allowable Costs for all Works performed in accordance with the Contract.

(b) The Company must pay the Contractor the Margin for all Works performed in accordance with the Contract, until such time as the payments made for all Works performed equals or exceeds the Target Outturn Cost.

(c) The Contractor shall not be entitled to any payment, for any Works or re-performance of any Works required by virtue of:

(i) the Contractor's breaches of the Contract;

(ii) the remediation of Fabrication Defects;

(iii) Variations proposed by the Contractor for its own convenience; or

(iv) the negligence of the Contractor or its Personnel.

(d) The Contractor agrees that despite any other provision of the Contract to the contrary, to the maximum extent permitted by law, it shall not be entitled to any Claim:

(i) for carrying out the Works and performing its obligations under the Contract except as expressly set out in the Contract;

(ii) for any risk arising out of or in connection with carrying out the Works and performing its obligations under the Contract which the Contractor is not expressly relieved from accepting liability for or is not expressly entitled to payment or extensions of time for under the Contract; and

(iii) arising out of or in connection with quantum meruit, unjust enrichment or restitution (or similar Claims), whether arising out of or in connection with the Contract, under statute, in tort (including for negligence) or any other basis in law or equity.

33.2 Method of payment

Unless otherwise provided in the Contract, all payments required to be made to the Contractor by the Company under the Contract must be made in Australian dollars by electronic funds transfer into the Contractor's nominated bank account.

33.3 Time for and format of Payment Claims

(a) In this clause 32 a **Payment Claim** is a payment claim given in accordance with this clause 33.3 and includes a Final Payment Claim.

(b) The Contractor must give the Company's Representative claims for payment on account of the Contractor Sum and any other amounts payable by the Company to the Contractor under the Contract:

(i) on the 25th day of each month (or as required under clause 33.10); and

(ii) in the format approved by the Company's Representative which must as a minimum:

(A) detail the period for which the claim relates;

(B) set out the amounts that the Contractor asserts are payable to the Contractor in accordance with the Contract;

(C) describe in detail:

(I) the part of the Works performed during the relevant period;

(II) any remediation works for which payment is claimed under clause 21.2; and

(III) any Works performed or re-performed in the relevant period which are subject to clause 31(b) and for which no payment has been claimed;

(iii) any other amount the Contractor claims is payable by the Company under the Contract, the legal basis for such entitlement, if relevant identifying the provision of the Contract relied on and the facts to support that entitlement;

(iv) set out amounts paid previously under the Contract;

(v) provide an individual reference number for the Company to quote with remittance of payment; and

(vi) include:

(A) any further verification, reference or documentation in relation to the invoice as is reasonably required by the Company; and

(B) any further information stipulated in any applicable law, or by the Company, so that the Company will receive the benefit of any available Tax benefit in relation to the Works.

33.4 Incomplete Payment Claims

(a) Should any Payment Claim (including any Payment Claim submitted under clause 33.4(b)) not contain the information required under clause 33.3(b)(ii), the Company's Representative may:

(i) complete the missing details and assess the Payment Claim in accordance with clause 33.5; or

(ii) return the incomplete Payment Claim to the Contractor, providing details of the missing information.

(b) Where the Company's Representative returns an incomplete Payment Claim to the Contractor, the Contractor must submit a Payment Claim that complies with clause 33.3(b)(ii) within the time notified by the Company's Representative or, where no time is notified, within 48 hours.

33.5 Payment Statement

(a) Within 10 Business Days of receipt of a Payment Claim under clause 33.3, the Company's Representative must give the Contractor a payment statement (**Payment Statement**) which states:

(i) the value of the Works carried out by the Contractor in accordance with the Contract as at the date of the Payment Claim;

(ii) the amount already paid to the Contractor;

(iii) the amount the Company is entitled to retain, deduct, withhold or set off under this Contract;

(iv) the amount (if any) which the Company's Representative believes to be payable by the Company to the Contractor under the Contract and which the Company proposes to pay to the Contractor; and

(v) if the amount in clause 33.5(a)(iv) is less than the amount claimed in the Payment Claim:

(A) the reason why the amount in clause 33.5(a)(iv) is less than the amount claimed in the Payment Claim; and

(B) if the reason for the difference is that Company has retained, deducted, withheld or set off payment for any reason, the reason for the retention, deduction, withholding or setting off.

(b) The Company's Representative may issue a further Payment Statement correcting any error discovered in any previous Payment Statement or modifying any previous Payment Statement issued by it.

(c) If the Contractor fails to make a Payment Claim in accordance with the Contract, the Company's Representative may nevertheless issue a Payment Statement under this clause 33.5.

33.6 Payment

(a) Upon receipt of a Payment Statement, the Contractor must issue to the Company a tax invoice:

(i) in a form reasonably required by the Company;

(ii) in the amount assessed in the relevant Payment Statement; and

(iii) which attaches a copy of the relevant Payment Statement,

(**Invoice**).

(b) The Company effects payments on the 1st (**1st Payment Day**) or the 15th (**2nd Payment Day**) of every calendar month (**Payment Days**), or alternatively the first Business Day following a Payment Day where the Payment Day is not a Business Day.

(c) Subject to clauses 33.7 and 33.11 the Company must:

(i) if the Invoice is received before the 25th day of the month, pay to the Contractor, the amount shown in the Payment Statement as due to the Contractor on the 1st Payment Day; or

(ii) if the Invoice is received after the 25th day of the month, pay to the Contractor, the amount shown in the Payment Statement as due to the Contractor on the 2nd Payment Day.

(d) The Company's payment of any amount is not to be considered as:

(i) an acceptance of the amount or of the Company's liability to make that payment;

(ii) evidence that the Works have been carried out satisfactorily or in accordance with the Contract;

(iii) any waiver of any claims for Defects; or

(iv) any waiver of claims to recover any amount paid that is disputed by the Company.

33.7 Unfixed plant and materials

(a) Unless otherwise agreed in writing between the Company and the Contractor, unfixed plant and materials may not be included in the value of Works or in a Payment Claim unless:

(i) in respect of items of unfixed plant and materials not located on the Site the Contractor has procured and provided to the Company (prior to or with the relevant Payment Claim) a bank guarantee that complies with the requirements of clauses 6.1(a)-6.1(d) in favour of the Company equal to the aggregate value of all such unfixed plant and materials which at the date of the Payment Claim;

(ii) in respect of items of unfixed plant and materials for which payment is claimed:

(A) the unfixed plant and materials are clearly marked as the property of the Company;

(B) the Contractor has provided evidence to the satisfaction of the Company that the plant and materials are adequately insured for their full replacement value and properly stored in a secure place; and

(C) the supplier of those plant and materials has certified in writing in favour of the Company that title to the plant and materials will pass to the Company free from any lien, change or security interest upon payment in full to the supplier by the Contractor or incorporation into the Works, whichever is the earlier.

(b) Upon the earlier of payment of an Invoice which includes unfixed plant and materials, or incorporation of the plant and materials into the Works, property in the unfixed plant and materials will vest in the Company.

33.8 Conditions precedent to entitlement to payment

If:

(a) at the time that the Contractor submits an Invoice under clause 33.6(a) or a Final Invoice under clause 33.10(c), and without prejudice to clause 33.11:

(i) clause 6.5 applies; or

(ii) the Contractor has not:

(A) effected the insurance required by clause 42 or (if requested) provided evidence of this to Company's Representative;

(B) delivered to the Company all relevant Deliverables and Records (including all documents constituting the manufacturer data report) required to be delivered by the date of the Invoice; and

(C) in the case of a Final Invoice submitted a duly executed release in the form set out in Schedule 11;

(b) following the Company issuing a Payment Statement under clause 33.5 or Final Payment Certificate under clause 33.10(b) the Contractor has not Issued to the Company an Invoice under clause 33.6(a) or a Final Invoice under clause 33.10(c),

then the Contractor will not be entitled to payment of and the Company will not be liable to pay any amount included in the Payment Claim or Final Payment Claim.

33.9 Errors or exceptions in invoicing

(a) If the Contractor discovers any errors or exceptions relating to its invoicing for the Works, the Contractor must promptly notify the Company in writing.

(b) If either Party discovers an error or exception relating to an invoice, the Parties will jointly review the nature of the errors or exceptions, and the Contractor must, if appropriate, take prompt corrective action and adjust the relevant invoice or refund overpayments.

33.10 Final payment and certificate

(a) Within 28 days after the end of the final Defects Liability Period, the Contractor must give the Company a written final payment claim, endorsed 'Final Payment Claim' in the same form, and containing the same information required under clause 33.3 (**Final Payment Claim**).

(b) Within 28 days after receipt by the Company of the Final Payment Claim, the Company Representative must issue to the Contractor a final certificate evidencing the moneys finally due and payable between the Contractor and the Company in connection with the Contract (**Final Payment Certificate**).

(c) Upon receipt of a Final Payment Certificate, the Contractor must issue to the Company:

(i) a tax invoice:

(A) in a form reasonably required by the Company;

(B) in the amount assessed in the Final Payment Certificate; and

(C) which attaches a copy of the Final Payment Certificate; and

(ii) a duly executed release in the form set out in Schedule 11,

together (**Final Invoice**).

(d) Subject to clauses 33.7 and 33.11, payment of the Final Invoice will be made within 14 days.

(e) The Final Payment Certificate shall be conclusive evidence of the satisfaction and in discharge of each Party's obligations in connection with the Contract except for:

(i) fraud relating to the Works or to any matter dealt with in the Final Payment Certificate;

(ii) any Defects which were not apparent at the end of the Defects Liability Period;

(iii) any accidental or erroneous inclusion or exclusion of any work or figures in any computation or any arithmetical error in any computation; or

(iv) unresolved issues the subject of any Dispute Notice under clause 65 served before the 7th day after the issue of the Final Payment Certificate.

33.11 Workers and Subcontractors

(a) As a condition precedent to being entitled to payment of:

(i) an invoice issued under clause 33.3; or

(ii) a Final Payment Invoice under clause 33.10(a),

the Contractor must give the Company documentary evidence to the Company's satisfaction of the payment of moneys due and payable to workers of the Contractor and the Subcontractors and their workers in respect of the Works the subject of that invoice.

(b) Documentary evidence provided under clause 33.11(a) must include a statutory declaration by a duly authorised representative of the Contractor, which states that at the date of the statutory declaration:

(i) all workers who have at any time been employed by the Contractor in the performance of any Works; and

(ii) all Subcontractors,

have been paid all moneys due and payable to them in respect of the performance of the Works.

33.12 Direct payment of subcontractor or consultant by the Company

(a) Despite any other provision of the Contract, the Company may in its absolute discretion (including where the Company becomes aware that a Subcontractor or employee is entitled to suspend work which forms part of the Works under the Security of Payment Act) pay any moneys owing by the Contractor to a Subcontractor or worker in relation to the execution of the Works.

(b) Any payment under clause 33.12(a) is deemed to have been paid to the Contractor under the Contract.

(c) If an amount equal to or greater than the amount paid by the Company on the Contractor's behalf is not or never becomes due by the Company to the Contractor, the amount paid by the Company will be a debt due from the Contractor to the Company.

(d) The Company must not pay under clause 33.12 any amount greater than the amount specified as payable in the declarations or documents provided to the Company under clause 33.11, an adjudicated amount (as defined in the Security of Payment Act) or any judgment in favour of a subcontractor or worker.

33.13 Subcontractor Claims

Despite any other provision of the Contract, the declaration to be provided by the Contractor under clause 33.11 of the Contract must also include a declaration that the Contractor has no knowledge of any actual or threat by any Subcontractor to suspend under the Security of Payment Act, other than as detailed in the declaration.

34. Deduction from payments

34.1 Deductions and set off

(a) The Company may deduct or set off from sums due to the Contractor:

(i) any sums reasonably claimed, due or that will become due from the Contractor to the Company;

(ii) any sums that are required to be paid to the Contractor's employees, suppliers, Subcontractors in accordance with clause 33.12;

(iii) any sums that are required to be paid to a third party due to the default or a failure of the Contractor; and

(iv) any sums incurred by the Company or a third party engaged by the Company to rectify Defects.

(b) The Company shall give the Contractor at least [5] Business Days' notice of its intention to deduct or set-off any such sums.

34.2 Deductions and withholdings required by law

(a) If the Company is required by law to withhold or deduct any amount (**Deducted Amount**) from an amount payable under the Contract:

(i) the Deducted Amount will be treated as having been paid to the Contractor when it is withheld or deducted; and

(ii) the Company will not be liable to pay any amount on account of the Deducted Amount to the Contractor.

(b) If the Company fails to withhold or deduct a Deducted Amount, the Company may:

(i) give notice to the Contractor demanding payment of an amount equal to the Deducted Amount and the Contractor will pay that amount to the Company within [30] days of receiving the notice;

(ii) deduct an amount equal to the Deducted Amount from any amounts payable by the Company to the Contractor and the amount so deducted will be treated as having been paid to the Contractor when it is deducted and the Company will not be liable to pay any amount on account of the Deducted Amount to the Contractor; or

(iii) recover an amount equal to the Deducted Amount by a combination of a demand under clause 34.2(b)(i) and deducting an amount under clause 34.2(b)(ii),

and in each case where the failure to withhold or deduct the Deducted Amount arises as a result of any act, omission or oversight of the Contractor, the Deducted Amount will include any fines, penalties or interest payable by the Company in respect of the Deducted Amount.

34.3 Notification of withholding or deductions

The Company must notify the Contractor of the details of any amounts withheld or deducted under clauses 34.1 or 34.2.

35. Security of Payment Act

35.1 Application of Security of Payment Act

(a) This clause 35 will apply only to the extent that the Security of Payment Act applies to the Contract.

(b) Expressions defined or used in the Security of Payment Act have the same meaning for the purpose of this clause 35 (unless the context otherwise requires).

35.2 Notice of communications

(a) The Contractor must:

(i) as soon as practicable, give the Company Representative a copy of any claim or notice under the Security of Payment Act that it receives from a third party (including a Subcontractor);

(ii) as soon as practicable, give the Company Representative a copy of any Claim or notice under the Security of Payment Act;

(iii) ensure that each Subcontractor gives the Company Representative as soon as practicable, a copy of any notice that the Subcontractor receives from another person under the Security of Payment Act; and

(iv) promptly notify the Company Representative if it becomes aware that a Subcontractor intends to exercise a right of suspension under the Security of Payment Act.

(b) Failure to comply with clause 34.2(a) will be a substantial breach of the Contract entitling the Company to give the Contractor a notice to remedy breach in accordance with clause 47.1 of the Contract. Such a right will be in addition to any other right the Company may have.

35.3 Nominating authority

The Contractor agrees that:

(a) the Parties have chosen the Resolution Institute (WA Chapter) as the authorised nominating authority to which any adjudication application under the Security of Payment Act is to be made; and

(b) the Contractor must make any adjudication application under the Security of Payment Act to that authorised nominating authority (unless the Company in its absolute discretion consents to any alternative nominating authority).

35.4 Contractor's remedies limited

Nothing in the Contract must be construed to:

(a) make any act or omission of the Company in contravention of the Security of Payment Act (including failure to pay an amount becoming due under the Security of Payment Act), a breach of the Contract (unless the Company would have been in breach of the Contract had the Security of Payment Act had no application); or

(b) give to the Contractor rights or remedies under the Contract which extend or are in addition to rights or remedies given to the Contractor by the Security of Payment Act in respect of any act or omission of the Company in contravention of the Security of Payment Act.

35.5 Suspension by Contractor

(a) If the Contractor, at any time suspends the whole or any part of the Works under the Security of Payment Act then, despite any other provision of the Contract:

(i) the suspension will enable the Contractor to request an extension of time in accordance with clause 24.2;

(ii) clause 35.4 will apply; and

(iii) except to the extent (if any) expressly provided under the Security of Payment Act, the Company will not be liable for any Liability whatsoever suffered or incurred by the Contractor as a result of the suspension.

(b) The Contractor must return to work no later than [1] Business Day after the date on which the Contractor receives payment of an amount (for which the failure to pay was the Contractor's basis for suspension) under the Security of Payment Act.

35.6 Suspension by Subcontractors

If any Subcontractor at any time suspends the provision by it of work, services, materials or other things (which form part of the Works) or takes any other action under the Security of Payment Act, despite any other provision of the Contract:

(a) the Contractor will not be relieved of any of its obligations under the Contract and the suspension or other action by the Subcontractor will not entitle the Contractor to any Claim (including without limitation for any extension of time or delay or disruption costs under the Contract); and

(b) the Contractor will immediately provide to the Company full details of the circumstances giving rise to the Subcontractor's right or alleged right to suspend or take other action.

35.7 Indemnity

The Contractor must indemnify and keep indemnified the Company and its employees and agents against any Liability suffered or incurred, caused or contributed to by:

(a) a suspension by a Subcontractor of work which forms part of the Works, under the Security of Payment Act;

(b) a notice of Claim being served on the Company under the Security of Payment Act; and

(c) a failure by the Contractor to comply with this clause 35.

35.8 Adjudicator's determination

Where an adjudication occurs under the Security of Payment Act and the Company has paid the adjudicated amount to the Contractor:

(a) that amount will be taken into account by the Company Representative in making future payments under clause 32 of the Contract or in demanding payment from the Contractor as the case requires; and

(b) if the adjudicator’s determination is quashed, overturned or declared to be void:

(i) the adjudicated amount will become a debt due and payable by the Contractor to the Company upon demand and in respect of which the Contractor is not entitled to Claim or exercise any set-off, counterclaim, deduction or similar right of defence;

(ii) the Company:

(A) is not bound by the adjudication determination;

(B) may reassess the value of the work that was valued by the adjudicator; and

(C) may, if it disagrees with the adjudication determination, express its own valuation in any payment schedule; and

(i) the payment schedule referred to in clause 35.8(b)(ii)(C)will be treated as a final determination of the value of the relevant work, subject to the provisions of clause 32 of the Contract .

(c) Nothing in the Contract will affect, restrict or limit the Contractor's rights under the Security of Payment Act.

36. Goods and Services Tax

36.1 Definition and interpretation

(a) Unless the context otherwise requires, words or expressions used in this clause 36 which are defined in the GST Law have the same meaning in this clause.

(b) **Recipient** means the party to which the relevant supply is made.

(c) **Supplier** means the party making the relevant supply.

36.2 GST Gross-up

If the Supplier makes a supply under or in connection with the Contract on which GST is payable, (not being a supply the consideration for which is specifically described in the Contract as inclusive of GST) then:

(a) the consideration payable for that supply under the Contract but for the application of this clause (**GST exclusive consideration**) is increased by, and the Recipient of the supply must also pay to the Supplier, an amount equal to the GST payable on the supply (**GST Amount**); and

(b) the GST Amount must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided, subject to the Supplier giving the Recipient a tax invoice in respect of that taxable supply.

36.3 Payments and Reimbursements

(a) If a payment to a party under the Contract is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party, or the representative member of a GST group of which that party is a member, is entitled for that loss, cost or expense.

(b) If a payment is calculated by reference to, or as a specified percentage of, another amount or revenue stream, that payment shall be calculated by reference to, or as a specified percentage of, the amount or revenue stream exclusive of GST.

36.4 Adjustments

If an adjustment event arises in respect of a supply made under or in connection with the Contract, then:

(a) the Supplier must issue an adjustment note to the Recipient within [7] days of the adjustment event occurring or otherwise as soon as it becomes aware of the adjustment event, outlining the revised amount of GST payable in respect of that supply (Corrected GST Amount);

(b) if the Corrected GST Amount is less than the previously attributed GST Amount, the Supplier shall refund the difference to the Recipient within [15] days of the adjustment note being issued by the Supplier; and

(c) if the Corrected GST Amount is greater than the previously attributed GST Amount, the Recipient shall pay the difference to the Supplier within [15] days of the adjustment note being issued by the Supplier.

36.5 GST obligations to survive termination

This clause 36 will continue to apply after expiration or termination of the Contract.

37. Stamp duty and Customs Duties

37.1 Stamp duty

Without limiting the operation of clause 6.4, the Contractor:

(a) must pay all stamp duties and other duties (other than Customs Duties), together with any related fees, penalties, fines, interest or statutory charges, and similar Taxes in respect of the Contract, the performance of the Contract and each transaction effected or contemplated by or made under the Contract; and

(b) indemnifies the Company against, and must pay to the Company on demand the amount of, any indemnified loss suffered or incurred by the Company arising out of or in connection with any delay or failure to comply with clause 37.1(a).

37.2 Customs Duties

(a) Where the Company elects to acquire products on a Duty Delivered Paid, as defined in the Incoterms 2010, or similar shipping term basis, the Contractor will:

(i) be responsible for, and remit payment of all Customs Duties assessed by or payable to any Government Agency as well as any other foreign shipping charges, provided that such payment have been approved by the Company as a reimbursable cost; and

(ii) where applicable, ensure that products may be imported free of Customs Duties through the use of applicable bilateral free trade agreements (or the equivalent) or otherwise ensure that all relevant concessions and categorisations are, to the extent legally available, applied to minimise any Customs Duties imposed.

(b) Regardless of the shipping or freight terms used, the Contractor will, at the Company's request, provide the Company with all information and documentation necessary for the Company to comply with the applicable laws in relation to applications or certifications for Customs Duties concessions or bilateral free trade agreements (or the equivalent), in each case in form and substance satisfactory to the Company. Where the Company succeeds in such applications, the Contractor will obtain Custom Duties refunds and pass on any Customs Duties savings to the Company within [3] Business Days of receiving such refunds.

(c) The Contractor is responsible for the determination and proper payment of custom duties applicable and will be liable for (and otherwise indemnify the Company for) all additional custom duties, value added tax, interests or fines that can be applied due to a misclassification or an omission made by the Contractor at the time of importing the products or goods delivered to the Company.

(d) For the avoidance of doubt, except to the extent clause 37.2(a) applies, the Company will not be liable for any Customs Duties assessed or payable on any importation of any goods or products by a Subcontractor. The liability for and obligation to pay any such Customs Duties will be borne by the Subcontractor.

38. Accounts, Records and audits

38.1 Contractor to maintain accounts and Records

(a) The Contractor must maintain a complete, correct and confidential set of financial and non-financial Records and accounts relating to all aspects of the Works and the Contract, including the performance of the Contractor and its Subcontractors.

(b) All amounts paid to the Contractor are subject to justification and audit during the provision of the Works and up to and including a period of [7] years after the issue of the Final Payment Certificate or earlier termination of the Contract. During this time period, the Company will have the right to inspect and audit the Contractor and its Subcontractors and all of their respective financial and non-financial Records for all activities related to the performance of the Contract.

(c) The Contractor must ensure that all the Company's audit rights under this clause 38.1 are enforceable by the Company against its Subcontractors.

(d) In the event such an audit under this clause 38.1 reveals any discrepancy or error:

(i) the Company will notify the Contractor; and

(ii) any payment determined to be due from the Contractor to the Company must be paid promptly by the Contractor.

38.2 Audit

(a) The Contractor must permit the Company to have access to the Contractor's premises, any of their Records and to interview the Contractor's Personnel in connection with the Works, including to verify, monitor and audit the Contractor's compliance with the Contract.

(b) Without limiting any other rights or remedies available to the Company as a result of the Contractor's non-compliance with the Contract, if deficiencies are identified by an audit undertaken under clause 38.2, the Contractor must at its own cost take prompt corrective action and notify the Company of such action.

38.3 Survival

This clause 38 will survive the expiry or earlier termination of the Contract.

39. Co-operation with third parties

39.1 No interference

(a) Throughout the performance of the Works, the Contractor must:

(i) not impede or interfere with the work of any other suppliers, contractors or their respective personnel;

(ii) coordinate the performance of the Works with the works of any other suppliers, contractors or their respective personnel and reasonably cooperate with such suppliers, contractors and their respective personnel; and

(iii) make available and co-ordinate with other suppliers, contractors or their respective personnel the access to and use of:

(A) utilities, connections and interfaces;

(B) construction amenities; and

(C) the protection and security of materials and works completed by other suppliers, contractors or their respective personnel.

(b) Such other suppliers and contractors may, with the Contractor's consent (such consent not to be unreasonably withheld or delayed), use any equipment, temporary works or access arrangements, of the Contractor.

39.2 Interface agreements

The Contractor must, if requested by the Company (acting reasonably), enter into an interface agreement with any other suppliers or contractors performing works that interface with the Works on such reasonable terms as may be required by the Company, which will include amongst other things, each parties' rights and obligations in relation to the interfaces between their respective works.

39.3 Indemnity

The Contractor shall indemnify the Company against any claims of any other suppliers, contractors or their respective personnel for any cost, loss, damage or expense incurred as a result of the Contractor's failure to comply with its obligations under this clause 39.

40. Force Majeure

40.1 Notice of Force Majeure

A Party (**Affected Party**) will not be liable for any delay or failure to perform any of its obligations under the Contract if as soon as possible after (and, in any event, no later than [5] Business Days after) the beginning of the event of Force, the Affected Party gives a notice to the other Party:

(a) specifying the obligations the Party cannot perform;

(b) fully describing the Force Majeure;

(c) estimating the time during which the Force Majeure will continue and estimate the cost and schedule effect of the Force Majeure; and

(d) specifying the measures proposed to be adopted to remedy or abate the Force Majeure.

40.2 Obligation to remedy and mitigate

The Affected Party that is prevented from carrying out its obligations under the Contract as a result of Force Majeure notified under this clause must:

(a) to the extent reasonably practicable remedy the effects of the Force Majeure resume performance of its affected obligations as soon as reasonably possible; and

(b) take all action reasonably practicable to mitigate any Liabilities suffered by the other Party as a result of its inability to carry out its obligations under the Contract.

40.3 Expiry of Force Majeure

Once the effects of the Force Majeure have been overcome, the Contractor shall provide the Company with a notice stating the actual effect on the Program and the Target Outturn Cost.

40.4 Termination for Force Majeure

If:

(a) an Affected Party cannot perform its affected obligations for a period of [6] consecutive months despite complying with its obligations under this clause 40; and

(b) the Parties have consulted with each other during the period, but are unable to agree as to what reasonable steps should be taken,

then, at the expiration of the [6] month period:

(c) either Party may terminate the Contract;

(d) the obligations of the Parties under the Contract will, upon such termination, be at an end and, subject to clause 40.4(e), no Party will have any Liability to, or a claim against, the other Party in respect of such termination (other than in respect of rights and obligations which accrued prior to the occurrence of the notified Force Majeure); and

(e) the Contractor shall accept as its sole remedy, on account of termination under this clause, the amount calculated in accordance with clauses 46.4(a)(i) to 46.4(a)(iv) as if the Contract has been terminated under clause 46.1 and the Contractor will not be entitled to any other Claim.

41. Loss and damage

(a) The Contractor must undertake and complete the Works in a manner that does not result in:

(i) any damage to or destruction of any property (including real or personal property of any third party), other than where specifically authorised by the Contract; or

(ii) any injury or death to any person.

(b) As soon as practicable and in accordance with the requirements of the Company, the Contractor must:

(i) rectify and make good any such damage to or destruction, including the reinstatement or replacement of any destroyed property; or

(ii) if applicable resolve any claim brought by any third party in relation to such damage to or destruction.

42. Insurance

42.1 Contractor Insurances

(a) The Contractor must effect and maintain, or cause to be effected and maintained, all of the Contractor Insurances for the period of insurance and in accordance with the terms and conditions set out in Parts B and C of Schedule 13 and this clause.

(b) The Contractor must pay:

(i) all premiums in respect of the Contractor Insurances as and when they become payable;

(ii) all deductibles (howsoever called) payable under the Contractor Insurances;

(iii) all deductibles (howsoever called) payable in relation to a claim made by or on behalf of the Contractor under the Company Insurances; and

(iv) all deductibles (howsoever called) payable in relation to a claim made by the Company whether under the Company Insurances or under the Contractor Insurances where the loss giving rise to the claim under the policy was caused (in whole or in part) by a wrongful (including negligent) act or omission of the Contractor. In relation to the employer's liability and worker's compensation insurance the Contractor must ensure that the policy provides an indemnity to the Company for the Company's liability (both statutory and at common law) to the Contractor's Personnel.

(c) The Contractor Insurances (other than those coverages required to be placed with a statutory insurer) must be placed with insurers regulated by the Australian Prudential Regulation Authority with a financial security rating of "A-" or better by Standard & Poor's (or the equivalent rating with another recognised rating agency) or otherwise approved by the Company.

(d) Whenever requested by the Company, the Contractor must provide evidence to the reasonable satisfaction of the Company that the Contractor Insurances have been effected and maintained and premiums paid.

(e) If the Contractor does not comply with clause 42.1(d), or fails to effect or maintain any of the Contractor Insurances, the Company may effect or renew the relevant insurance policy and may recover the cost of doing so as a debt due from the Contractor.

(f) The Contractor must not do, or fail to do, anything that may invalidate or prejudice any right to indemnity under any of the Contractor Insurances.

(g) Before effecting, adversely varying or extending coverage under any of the Contractor Insurances, the Contractor must provide written notice to the Company.

(h) The Contractor must maintain the level of cover for the Contractor Insurances specified in Schedule 13 and must promptly increase the policy limit if cover is eroded and reinstate any Contractor Insurance if it lapses or if cover is exhausted.

(i) The Contractor must take all reasonable steps to recover loss suffered by the Company if that Loss is attributable to the Contractor or its Personnel and is a loss covered under a Contractor Insurance.

(j) Where the Contractor is required under Schedule 13 to be an insured party under any of the Company Insurances, the Contractor must provide reasonable assistance to the Company to allow the Company to effect that insurance, including by providing disclosures and proposal information required to be given to insurers.

(k) The Contractor must as soon as reasonably possible notify the Company in writing of any occurrence, incident, matter or thing that may, however remotely, give rise to a claim by the Contractor under any of the Company Insurances or of any other matter or thing for which those policies require notice to be given to the insurer, provided that where there is an actual or potential conflict of interest between the Company and the Contractor in relation to the claim, the Contractor may give this notice directly to the insurance broker to the policy or to the insurer.

42.2 Company Insurances

(a) The Company must effect and maintain, or cause to be effected and maintained, all of the Company Insurances for the period of insurance and in accordance with the terms and conditions set out in Part A and C of Schedule 13 and this clause.

(b) The Company must pay:

(i) all premiums in relation to the Company Insurances as and when they become payable;

(ii) all deductibles (howsoever called) payable in relation to a claim made by or on behalf of the Company whether under the Company Insurances or under the Contractor Insurances, except where the loss giving rise to the claim under the policy was caused (in whole or in part) by a wrongful (including negligent) act or omission of the Contractor in which event the deductible must be paid by the Contractor.

(c) The Company must promptly reinstate any Company Insurance if it lapses or if cover is exhausted.

(d) Before the Commencement Date, the Company will provide the Contractor with the certificate of currency of each of the Company Insurances excluding references to premiums and other costs payable by the Company.

(e) Where the Company is required under Schedule 13 to be an insured party under any of the Contractor Insurances, the Company must provide reasonable assistance to the Contractor to allow the Contractor to effect that insurance, including by providing disclosures and proposal information required to be given to insurers.

(f) The Company must as soon as reasonably possible notify the Contractor in writing of any occurrence, incident, matter or thing that may, however remotely, give rise to a claim by the Company under any of the Contractor Insurances or of any other matter or thing for which those policies require notice to be given to the insurer, provided that where there is an actual or potential conflict of interest between the Company and the Contractor in relation to the claim, the Company may give this notice directly to the insurance broker to the policy or to the insurer.

42.3 Reinstatement

(a) The Parties agree that all insurance proceeds received under any contract works insurance will be applied to repair, reinstate and replace each part or parts of the Works in respect of which the proceeds were received.

(b) The Parties will provide all assistance and information to each other as may be necessary to allow a Party to make a claim under any of the insurances affected pursuant to the Contract.

43. Indemnities

43.1 Indemnity

(a) Subject to clause 43.2, to the maximum extent permitted by law, the Contractor will indemnify (and will keep indemnified) the Company, its Personnel and the Albemarle Group (**Indemnified Parties**) from and against all Liabilities that any Indemnified Party suffers, sustains or incurs, which is caused or contributed to by:

(i) any breach by the Contractor or its Personnel of any of the Contractor's obligations (including any warranty) under the Contract;

(ii) any negligent or unlawful act or omission by the Contractor or its Personnel;

(iii) any illness, injury or death of any person, or any loss or destruction of or damage to any property caused or contributed to by the Contractor or its Personnel, in connection with the Contractor's performance or non-performance or breach of the Contract, or any other act or omission of the Contractor or its Personnel;

(iv) any claim made against an Indemnified Party by any of the Contractor's Personnel in respect of relevant legislation concerning income tax, payroll tax, workers' compensation, annual leave, long service leave, superannuation or any applicable award, determination or agreement of a competent industrial tribunal; and

(v) any penalty or fine imposed for breach by the Contractor or its Personnel of any applicable Approvals, legislation, laws or regulations.

(b) The Contractor acknowledges and agrees that the minimum insurance limits provided for in the Contract will not limit any indemnity given by the Contractor under the Contract.

43.2 Proportional reduction of Liability

Any Liability of the Contractor under clause 43.1 will be reduced to the extent that an act or omission of the Company or its Personnel contributed to the Liability.

43.3 Indemnity held for benefit of Company and the Albemarle Group

Every exemption, limitation, defence, immunity, indemnity or other benefit contained in the Contract or otherwise to which the Company, its Personnel or a member of the Albemarle Group is entitled will be held by the Company for the benefit of, and will extend to protect, each member of the Albemarle Group and each of their respective past or present directors or officers.

43.4 Indemnity continuing

Each indemnity in the Contract is a continuing obligation separate and independent from the Contractor's other obligations and survives the expiry or earlier termination of the Contract.

43.5 No requirement for expense before enforcing indemnity

It is not necessary for the Company, a member of the Albemarle Group or their respective Personnel to incur expense or make payment before enforcing a right of indemnity conferred by the Contract.

43.6 Survival

This clause 43 will survive the expiry or earlier termination of the Contract.

44. Limitation of Liability

44.1 General liability

Despite any other provision of the Contract to the contrary (but subject to clause 44.2) to the maximum extent permitted by law, the Contractor's total aggregate liability to the Company, whether arising out of or in connection with the Contract, under statute, in tort (for negligence or otherwise) or any other basis in law or equity, is limited to an amount equal to the value of [200%] of the Target Outturn Cost (as adjusted from time to time).

44.2 Exclusions

Nothing in this clause 44 will affect or reduce the Contractor's liability arising out of or in connection with any Liability:

(a) for which the Contractor indemnifies the Company for claims by third parties;

(b) of the Contractor to the extent that the Contractor:

(i) is entitled to be indemnified for such Liability under a policy of insurance effected under the requirements of the Contract; or

(ii) would have been entitled to be indemnified for such Liability under a policy of insurance effected under the requirements of the Contract but for the Contractor's failure to comply with the terms and conditions of the relevant policy or its obligations under the Contract in respect of such policy;

(c) which by law the Contractor cannot contract out of;

(d) arising out of or in connection with the Contractor's breach of any of its obligations under clauses 50, 52 or 55;

(e) in respect of personal injury or death, or loss of or damage to third party property (whether such Liability arises by way of contribution, indemnity or otherwise); and

(f) of the Contractor arising out of or in connection with its or its Personnel’s gross negligence or Wilful Default.

44.3 Survival

This clause 44 will survive the expiry or earlier termination of the Contract.

45. Consequential Loss

45.1 General exclusion

Despite any other provision of the Contract to the contrary (but subject to clause 45.2), to the maximum extent permitted by law, neither Party shall be liable to the other Party for Consequential Loss, whether arising out of or in connection with the Contract, under statute, in tort (for negligence or otherwise) or any other basis in law or equity.

45.2 Exceptions

Nothing in this clause 45 will affect or reduce the liability:

(a) of a Party to the other Party to the extent that the first Party:

(i) is entitled to be indemnified for such liability under a policy of insurance effected under the requirements of the Contract; or

(ii) would have been entitled to be indemnified for such Liability under a policy of insurance effected under the requirements of the Contract but for the first Party's failure to comply with the terms and conditions of the relevant policy or its obligations under the Contract in respect of such policy;

(b) of a Party to the other Party which by law the first Party cannot contract out of;

(c) of the Contractor arising out of or in connection with:

(i) personal injury or death, or loss of or damage to third party property (whether such Liability arises by way of contribution, indemnity or otherwise);

(ii) the Contractor's breach of any of its obligations under clauses 50, 52 or 55;

(iii) the gross negligence or Wilful Default of the Contractor's Personnel;

(d) of the Company to pay the amounts payable under the Contract for Works properly performed in accordance with the Contract:

(e) of the Contractor for:

(i) any amount payable under an indemnity in the Contract for claims by third parties;

(ii) any Delay Liquidated Damages;

(iii) any amount expressed in the Contract as being a debt due and payable on demand; and

(iv) any statutory fine or penalty arising from any breach of law by the Contractor or any of its Personnel.

45.3 Survival

This clause 45 will survive the expiry or earlier termination of the Contract.

46. Termination for convenience

46.1 Termination Notice

(a) The Company may, at any time and in its absolute discretion terminate the Contract by giving the Contractor not less than [20] Business Days' notice (**Termination Notice**).

(b) If the Company purports to terminates the Contract under any other provision of the Contract and it is subsequently determined that the Company was not entitled to do so, such termination will be deemed to be a termination under this clause 46.1.

46.2 Obligations upon receipt of Termination Notice

Upon receipt of a Termination Notice, the Contractor must:

(a) immediately cease performance of the Works;

(b) continue to ensure the safety of all Personnel and the protection of all property;

(c) immediately take all possible action to mitigate any Liabilities incurred by it as a result of such termination; and

(d) take any other action reasonably required by the Company in relation to the termination.

46.3 Obligations upon termination

Within the timeframes stated in the Termination Notice, the Contractor must:

(a) provide the Company with a detailed report in such form as the Company may require in relation to the Works performed up to and including the date of receipt of the Termination Notice;

(b) return to the Company any Deliverables, designs and other Documentation prepared by or on behalf of the Contractor, whether complete or incomplete;

(c) if directed by the Company to do so:

(i) assign or novate to the Company any Subcontracts or rights under any Subcontracts entered into by the Contractor in connection with the carrying out of the Works; and

(ii) terminate any other outstanding Subcontracts and recover from the Subcontractors any items issued to the Subcontractor by the Company during the performance of the Works; and

(d) take any other action relating to the termination of the Contract as the Company may reasonably require and direct.

46.4 Contractor compensation

(a) If the Company terminates the Contract under this clause 45.3, the Company's sole obligation and Liability to the Contractor will be to pay the Contractor, subject to the Contractor complying with clause 46.4(b):

(i) any amount then due to the Contractor but unpaid;

(ii) payment for the Works properly performed up to the date of termination which are not included in a previous invoice;

(iii) reimbursement of the costs reasonably incurred as a result of complying with clauses 46.2 and clause 46.3;

(iv) the cost of materials and equipment reasonably ordered by the Contractor for the Works and which the Contractor is liable to accept, but only if they will become the Company's property upon payment; and

(v) the costs reasonably incurred in transporting its Personnel performing the Works at the date of termination from the Site back to their place of engagement, but not any costs incurred by the Contractor in terminating the employment of any of its employees as a result of the Contract being terminated,

subject to the Contractor taking all reasonable steps to mitigate the amounts recoverable.

(b) The Contractor's entitlement to any portion of the amount calculated under clause 46.4(a), is strictly conditional on the Contractor first providing to the Company all documents, records and any other information reasonably requested by the Company to verify the amounts requested.

(c) The payment of the amount calculated under clause 46.4(a) is the sole and exclusive remedy of the Contractor for the payment of any amounts or Liabilities recoverable from the Company for the termination of the Contract under this clause 45.3 and the Contractor will not be entitled to any other Claim in respect of that termination. However, termination shall not affect, and this clause 46.4(c) shall not limit or waive, any claims between the Parties existing prior to termination.

47. Contractor Default and Insolvency

47.1 Contractor Default Notice

If:

(a) the Contractor breaches any term of the Contract;

(b) the provider of the parent company guarantee suffers a material adverse change in its capacity to guarantee the performance of the Contractor's obligations; or

(c) the liquidated damages cap in clause 22.1(c) is reached and not extended by agreement of the Parties,

the Company may, without prejudice to the Company's rights and remedies at law, serve a notice of default (**Contractor Default Notice**) on the Contractor containing the information specified in clause 47.2.

47.2 Contractor Default Notice requirements

A Contractor Default Notice must:

(a) either require that the breach be remedied within a specified period after service of the Contractor Default Notice or state that the breach is incapable of remedy; and

(b) state that if the breach is not remedied within the period specified in the Contractor Default Notice or is incapable of remedy, then the Company may by further notice to the Contractor do one or more of the following:

(i) elect wholly or partly to suspend payment under the Contract until the breach has been remedied by the Contractor;

(ii) take such action as the Company deems necessary to cure the breach (the cost of such action so taken by the Company being recoverable from the Contractor as a debt due to the Company on demand); or

(iii) terminate the Contract with effect from a specified date (**Termination Date**).

47.3 Obligations upon termination

If the Company gives notice under clause 47.2(b)(iii), the Contract is terminated from the Termination Date and the Contractor must at its cost:

(a) immediately cease performance of the Works;

(b) continue to ensure the safety of all Personnel and the protection of all property;

(c) immediately take all possible action to mitigate any Liabilities incurred by it as a result of such termination;

(d) provide the Company with a detailed report in such form as the Company may require in relation to the Works performed up to and including the Termination Date;

(e) return to the Company any Deliverables, designs and other Documentation prepared by or on behalf of the Contractor, whether complete or incomplete during the performance of the Works;

(f) if directed by the Company to do so:

(i) assign or novate to the Company any Subcontracts or rights under any Subcontracts entered into by the Contractor in connection with the carrying out of the Works; and

(ii) terminate any other outstanding Subcontracts and recover from the Subcontractors any items issued to the Subcontractor by the Contractor or the Company during the performance of the Works; and

(g) take any other action relating to the termination of the Contract as the Company may reasonably require and direct.

47.4 No waiver

Termination shall not affect, and this clause 47 shall not limit or waive, any claims between the Parties existing at termination.

47.5 Contractor insolvency or bankruptcy

If, in respect of the Contractor, an Insolvency Event occurs, the Company may either:

(a) terminate the Contract with effect from a specified date by notice to the Contractor or any other person in whom the Contract has been vested, in which case the Company will be deemed to have terminated the Contract in accordance with clause 47.2(b)(iii) and clause 47.3 shall apply; or

(b) give the person in whom the Contract has been vested, the option to perform the Works in accordance with the Contract, subject to that person providing a guarantee satisfactory to the Company up to the value (as certified by the Company Representative) of the Works remaining to be performed under the Contract.

47.6 Contractor compensation

(a) If the Company terminates the Contract under this clause 47, the Company's sole obligation and Liability to the Contractor will be to pay the Contractor, subject to the Contractor complying with clause 47.6(b):

(i) any amount then due to the Contractor but unpaid;

(ii) payment for the Works properly performed up to the date of termination which are not included in a previous invoice; and

(iii) the cost of materials and equipment reasonably ordered by the Contractor for the Works and which the Contractor is liable to accept, but only if they will become the Company's property upon payment,

subject to the Contractor taking all reasonable steps to mitigate the amounts recoverable.

(b) The Contractor's entitlement to any portion of the amount calculated under clause 47.6(a), is strictly conditional on the Contractor first providing to the Company all documents, records and any other information reasonably requested by the Company to verify the amounts requested.

(c) The payment of the amount calculated under clause 47.6(a) is the sole and exclusive remedy of the Contractor for the payment of any amounts or Liabilities recoverable from the Company for the termination of the Contract under this clause 47 and the Contractor will not be entitled to any other Claim in respect of that termination. However, termination shall not affect, and this clause 47.6(c) shall not limit or waive, any claims between the Parties existing prior to termination.

48. Company Default and Insolvency

48.1 Company Default

If the Company fails to make a payment of any undisputed amount due to the Contractor under the Contract, suffers an Insolvency Event or otherwise materially breaches a material term of the Contract (**Company Default**):

(a) the Contractor may notify the Company of the Company Default (**Company Default Notice**); and

(b) this clause 48 will apply.

48.2 Company Default notice requirements

A Company Default Notice must detail the Company Default and require the Company to remedy the Company Default within a specified period of not less than [30] days (in relation to non-payment or an Insolvency Event) or [60] days (in relation to other default) after service of the Company Default Notice on the Company.

48.3 Period to remedy Company Default

(a) If a Company Default is not remedied within the period specified in the Company Default Notice the Contractor may suspend performance of all or any part of the Works until such time as the Company Default is remedied.

(b) Where the Works have been suspended under clause 48.3(a) for a period of not less than [30] consecutive days and the Company has failed to remedy the Company Default, the Contractor may by giving [10] Business Days' notice to the Company, terminate the Contract and clauses 46.3 and 46.4 will apply.

49. Step-in

49.1 Definition

In this clause, **Step-in Event** means one or more of the following events:

(a) a termination right arising under clause 47;

(b) an event which has caused or is likely to result in:

(i) serious harm to the Environment;

(ii) serious harm to the health or safety of any person;

(iii) serious impact on the structural integrity of any Works;

(iv) material damage to public or private property; or

(v) a serious impact to the security of the Site,

or is an emergency which affects the safe use, operation or occupation of the Site;

(c) the Company reasonably forming the view that the Contractor is or will be unable to provide the Works in accordance with the requirements of the Contract.

49.2 Right to Step-in

If a Step-in Event occurs, the Company may (without prejudice to the Company's other rights or remedies under the Contract or at law) by notice to the Contractor, elect to:

(a) temporarily assume management of the whole or any part of the performance of the Works; and

(b) take whatever action it considers reasonably necessary to ensure performance of the Works, including enforcing any contracts or arrangements to which the Contractor is a party,

(**Step-In Rights**).

49.3 Contractor Liability

(a) If the Step-in Event is caused by a breach of the Contract or an act or omission of the Contractor, any Liability suffered or incurred by the Company arising out of or in connection with the exercise of a Step-in Right will be a debt due and payable on demand by the Contractor to the Company.

(b) The Contractor agrees that the Company will have no Liability to the Contractor, and the Contractor will not be entitled to make any claim against the Company, in connection with the exercise of a Step-in Right other than to the extent the Company has acted fraudulently, in bad faith, with wilful misconduct or with gross negligence in the exercise of that Step-in Right.

49.4 Contractor to assist the Company

The Contractor must provide the Company with all necessary assistance in a timely manner to enable it to exercise a Step-in Right timely and efficient way.

49.5 Power of Attorney

The Contractor irrevocably:

(a) appoints the Company as the Contractor's power of attorney with full power and authority to exercise the Company's rights under this clause 49; and

(b) agrees to ratify and confirm whatever action is taken by any power of attorney appointed under this clause 49.5.

49.6 Cessation of Step-in Rights

(a) The Company:

(i) may at any time by notice to the Contractor cease to exercise its Step-In Rights, regardless of whether the Step-in Event is still ongoing; and

(ii) must cease to exercise its Step-in Rights where the Step-in Event has ended and the Company is satisfied that there is no risk of a recurrence of that Step-in Event.

(b) The Company will notify the Contractor of the date that the Company will cease to exercise its Step-in Rights and the Contractor must resume the full performance of its obligations under the Contract from that date.

(c) The Parties agree to consult with each other with the intention of ensuring that the transition from the Company ceasing to exercise its Step-in Rights to the Contractor resuming full performance of its obligations under the Contract is effected in an efficient manner.

50. Confidentiality

50.1 Confidential Information

The Contractor:

(a) agrees to keep confidential, and not to use or disclose, other than as permitted by the Contract, any Confidential Information; and

(b) represents and warrants that adequate procedures are in place to maintain the confidentiality of Confidential Information.

50.2 Obligations of confidence

The obligations of confidence in clause 50.1 do not apply to Confidential Information:

(a) that is required in order to comply with any applicable law or legally binding order of any court, Government Agency or recognised stock exchange, as long as the Contractor:

(i) discloses the minimum amount of Confidential Information required to satisfy the law or legally binding order of any court, Government Agency or recognised stock exchange; and

(ii) before disclosing any information gives the Company reasonable notice and takes all reasonable steps (whether required by the Company or not) to seek protective orders or injunctions to protect against such disclosure or maintain such Confidential Information in confidence;

(b) that is in the public domain other than as a result of a breach of the Contract or other obligation of confidence; or

(c) that is already known by, or rightfully received, or independently developed, by the Contractor free of any obligation of confidence, provided such prior knowledge, rightful receipt or independent development which in each case can be proven by tangible evidence.

50.3 Use of Confidential Information

(a) Without limiting clause 50.1 and irrespective of clause 50.2, if the Contractor needs to use or disclose Confidential Information in order to perform the Works, it must only use and disclose that Confidential Information on a ‘need to know’ basis and only with the Company's prior written consent.

(b) If the Contractor discloses Confidential Information under clause 50.3(a), the Contractor must ensure that such information is kept confidential by the person to whom it is disclosed and is only used for the exercise of rights or the performance of obligations under the Contract.

50.4 Protection of Confidential Information

The Contractor must:

(a) take all steps and do all things that are necessary, prudent or desirable in order to safeguard the confidentiality of the Confidential Information;

(b) immediately notify the Company if it becomes aware of any unauthorised use or disclosure of the Confidential Information;

(c) restrict the use of (including duplicating, reproducing, distributing, disseminating or directly or indirectly deriving information from) the Confidential Information to the provision of the Works;

(d) limit disclosure of Confidential Information within its own organisation to Personnel whose duties justify the need to know such information, who have a clear understanding of the obligations of the Contract, and who are legally obligated to comply with the terms of the Contact;

(e) not copy or reproduce the Confidential Information without ensuring that any such copy can be later recovered and then returned or destroyed; and

(f) not, without the Company's consent, disclose any correlation or similarity between the Confidential Information and information from any other source.

50.5 Contractor acknowledgements

The Contractor acknowledges that:

(a) the obligations in this clause 50 are in addition to and do not diminish the obligations of the Contractor in respect of secret and confidential information at common law or under any statute or trade or professional custom or use;

(b) this clause 50 is for the benefit of not only the Company but also any members of the Albemarle Group that have any interest in any Confidential Information;

(c) any damage to such members of the Albemarle Group is correspondingly a damage to the Company;

(d) the Company may seek and receive any relief or remedy to which each such member of the Albemarle Group would have been entitled and the Company has standing on behalf of each such member of the Albemarle Group to enforce this clause 50;

(e) the Company will suffer irreparable harm, financial and other loss and damage that is difficult to quantify if any unauthorised act occurs in relation to the Confidential Information and that monetary damages would be an insufficient remedy; and

(f) in addition to any other remedy available at law or in equity, the Company is entitled to injunctive relief to prevent a breach of, and to compel specific performance of this clause 50.

50.6 Return of Confidential Information

If requested by the Company, whether prior to or after the expiry or earlier termination of the Contract, the Contractor must promptly deliver to the Company or destroy all Confidential Information in the custody, possession or control of the Contractor or any of its Personnel.

50.7 Survival of clause

This clause 50 will survive the expiry or earlier termination of the Contract.

51. Public Announcements

(a) Except as required by any applicable law or regulatory requirement, the Contractor may not make any public announcements or disclosures as to the existence of the Contract, or otherwise in relation to the subject matter of the Contract, without the prior approval of the Company.

(b) No media release or public announcement may be made as to the existence of the Contract without the Company's prior approval and should such approval be given, then the wording of such release and the manner of publication must first be approved by the Company.

52. Intellectual Property

52.1 Contractor IP

(a) The Company acknowledges that the Contractor remains the owner of all Contractor IP and that nothing in the Contract prevents, limits or restricts the Contractor's subsequent use or exploitation of Contractor IP.

(b) The Contractor grants to the Company or any member of the Albemarle Group (as the case requires) and shall procure the grant by any Subcontractor having rights to or input into the Contractor IP a non-exclusive, transferable, royalty free, irrevocable and perpetual licence to use, configure, adapt or modify, without limitation, all Contractor IP for the purposes of or in connection with the Company's or the Albemarle Group’s business.

52.2 Contract IP

(a) The Contractor agrees that all Contract IP will be vested in the Company and will be the Company's property as and when created and the Contractor assigns and must ensure that all of its Personnel assign all of their respective right, title and interest in and to the Contract IP (whether created before, on or after the date of the Contract) to the Company.

(b) On the Company's request, the Contractor must execute any formal assignment or other document required to give effect to this clause 52.2.

(c) The Company grants to the Contractor a non-exclusive, non-transferable, revocable licence to use the Contract IP for the sole purpose of providing the Works.

(d) The Contractor must not reproduce, communicate, use, register or attempt to register any interest in or otherwise deal with the Contract IP, or allow any other person to do the same, for any purpose other than to provide the Works.

52.3 Sub-licence of Contractor IP

The Company may sub licence the Company's rights to the Contractor IP to any person where that person has been granted use of the Contract IP by the Company.

52.4 Albemarle Group IP

(a) The Contractor acknowledges and agrees that the Company or any member of the Albemarle Group (as the case requires) remain the owner of all Albemarle Group IP and that nothing in the Contract prevents, limits or restricts the Company’s or the Albemarle Group's subsequent use or exploitation of Albemarle Group IP.

(b) The Company grants to the Contractor, or where the relevant Albemarle Group IP is owned by a member of the Albemarle Group other than the Company, the Company will procure the grant to the Contractor of, a non-exclusive, non-transferable, revocable licence to use the Albemarle Group IP for the sole purpose of providing the Works.

(c) The Contractor must not reproduce, communicate, use, register or attempt to register any interest in or otherwise deal with the Albemarle Group IP, or allow any other person to do the same, for any purpose other than to provide the Works.

52.5 Contractor warranty

The Contractor warrants that:

(a) the Contractor has the right to grant to the Company the licence under clause 52.1(b); and

(b) the Contractor has the right to assign all Contract IP to the Company in accordance with clause 52.2.

52.6 General Contractor obligations

The Contractor agrees to:

(a) disclose to the Company all Contract IP as and when it is created;

(b) ensure that any Subcontract contains an assignment by the Subcontractor to the Company of all Intellectual Property Rights in any Contract IP created or otherwise contributed to by the Subcontractor for the purposes of the Works;

(c) notify the Company as soon as the Contractor becomes aware of any suspected, threatened or actual infringement or unauthorised use of any Intellectual Property Rights in the Contract IP and to provide all reasonable assistance in relation to that infringement; and

(d) provide all reasonable assistance the Company may request to protect, perfect, enforce, defend or assert its interests in and right to use and exploit the Contract IP (including assisting the Company to take action against persons infringing the Contract IP). The Contractor must also ensure that its Personnel provide all reasonable assistance to the Company as set out in clause 52.2(b).

52.7 Survival of clause

This clause 52 will survive the expiry or earlier termination of the Contract.

53. Third Party Intellectual Property Rights

53.1 Contractor warranty

The Contractor warrants that to the extent that it uses or proposes to use the Intellectual Property Rights of any third party in the provision of the Works, or to the extent the Company require the use of the Intellectual Property Rights of any third party in the use and enjoyment of the Works:

(a) it has obtained, or will obtain at no further cost to the Company, from the relevant third party all necessary licences and consents to use, or assignments of, such Intellectual Property Rights; and

(b) that it will not breach any of the licences or assignments referred to in clause 53.1(a).

53.2 Indemnity

(a) Without limiting clause 43, the Contractor indemnifies the Company and must keep the Company indemnified in respect of any Liabilities incurred or sustained by the Company resulting from any actual or alleged infringement of any Intellectual Property Rights of any third party arising out of or in connection with:

(i) the performance of the Works by the Contractor;

(ii) the performance or operations of any other plant, machinery, tools, equipment, process, work, material, matter, thing or method used or supplied by the Contractor; or

(iii) the use and enjoyment of the Works by the Company.

(b) The Contractor must notify the Company immediately after the Contractor becomes aware of a claim being threatened or made against the Company in relation to any of the matters covered by the indemnity in clause 53.2(a).

(c) The Company may require the Contractor to conduct any litigation that may arise from a claim referred to in clause 53.2(b) and all negotiations for settlement of that claim. However, the Contractor must not make any settlement or consent to any judgment, order or verdict against the Company without the Company's prior written consent.

53.3 Procurement of Intellectual Property Rights

If the Company is prevented from utilising the Works or any part of the Works as a result of any claim in relation to an infringement of Intellectual Property Rights, the Contractor must (at its cost) take all reasonable steps to procure for the Company the right to use the Works or the relevant part of the Works for the purpose for which it was intended.

53.4 Procedure where Intellectual Property Rights cannot be procured

If the Contractor cannot procure the rights referred to in clause 53.3 within a reasonable time, it must notify the Company Representative accordingly and the Company Representative may direct the Contractor to immediately (at the Contractor's cost):

(a) alter the Works or the relevant part of the Works to avoid infringement or violation of the Intellectual Property Rights or any of them;

(b) amend the Works affected or the relevant part of the Works with work or other services which do not infringe or violate the Intellectual Property Rights; or

(c) reimburse the Company any compensation and other moneys already paid to the Contractor and pay to the Company any costs or other expenses that may have been paid or incurred by the Company in connection with the removed Works.

54. Moral rights

To the extent that individuals are entitled to assert any Moral Rights in relation to any Deliverables assigned, licensed or supplied to the Company under the Contract, the Contractor must procure from those individuals all necessary consents and waivers in writing authorising the Company, its Personnel and permitted sublicensees to do any act or omit to act in any way that would otherwise infringe the Moral Rights of those individuals.

55. Avoiding conflicts of interest and corruption

55.1 Contractor's acknowledgement and warranty

(a) The Contractor acknowledges that:

(i) it is of paramount importance to the Company that the Contractor avoids circumstances which may:

(A) give rise to conflicts of interest relating to the performance of the Works;

(B) give rise to allegations of corruption against the Contractor, the Company or the Albemarle Group; or

(C) bring the Contractor, the Company or the Albemarle Group into disrepute; and

(ii) it has been provided with (and has reviewed) copies of the relevant Company Policies and Standards.

(b) The Contractor warrants that as at the date of the Contract it has not carried on business, entered into any financial arrangements or undertaken any obligation from which it could profit or benefit from the Company in respect of the Works or the Project generally otherwise than through the performance of the Works by the Contractor and its Personnel under the Contract.

55.2 Contractor must avoid conflicts of interest

During the term of the Contract, the Contractor must ensure that neither it nor any of its Personnel:

(a) carry on business;

(b) enter into any formal or informal arrangements; or

(c) undertake any obligation,

which would in any way interfere or conflict with, or appear to a third party to interfere or conflict with, the Contractor's performance of the Works.

55.3 Related party transactions

(a) The Contractor may only engage a Related Body Corporate of the Contractor in relation to the Works if that engagement is first fully disclosed to, and approved by, the Company.

(b) To the extent that a Related Body Corporate of the Contractor bids for or the Contractor , evaluates any bid for or recommends the award of a contract to a Related Body Corporate, it will only do so strictly in accordance with guidelines which have been approved by the Company.

55.4 Contractor's representations and warranties regarding ownership and dealings with Officials

(a) The Contractor represents and warrants that, as at the date of the Contract, it and its Personnel have not (either directly or indirectly through a third party):

(i) offered money or anything of value;

(ii) paid or promised to pay;

(iii) given or promised to give; or

(iv) authorised the payment of money or giving of anything of value,

to an Official (or any person) to secure an improper advantage or benefit in connection with the Works or the Project generally or the Contract or to induce an Official to use his or her influence to affect or influence any act or decision of a government office.

(b) The Contractor represents and warrants that:

(i) as at the date of the Contract, no Official has any direct or indirect ownership or other legal or beneficial interest in the Contractor or its Related Bodies Corporate;

(ii) as at the date of the Contract, no Official serves as an officer, director, employee or agent of the Contractor, or its Related Bodies Corporate;

(iii) until Practical Completion is achieved, and subject to clause 55.6(b), no Official will have any direct or indirect ownership or other legal or beneficial interest in the Contractor or its Related Bodies Corporate; and

(iv) during the term of the Contract, no Official will serve as an officer, director, employee or agent of the Contractor, or its Related Bodies Corporate.

55.5 Prohibition on giving or receiving improper advantage or benefit

(a) In performing its obligations under or in connection with the Contract, the Contractor and its Personnel shall not (either directly or indirectly through a third party):

(i) offer money or anything of value;

(ii) pay or promise to pay;

(iii) give or promise to give;

(iv) authorise the payment of money or giving of anything of value,

to an Official (or any person), while knowing or being aware of the possibility that all or part of the money or the thing of value may influence the Official (or the person receiving the money or the thing of value).

(b) In performing its obligations under or in connection with the Contract:

(i) if any Official solicits, asks for, or attempts to extort, any money or thing of value, the Contractor and its Personnel must refuse such solicitation, request or extortionate demand, and immediately notify the Company; and

(ii) the Contractor and its Personnel must not (either directly or indirectly through a third party) receive money or anything of value in exchange for any improper

advantage or benefit in relation to the Company's or the Albemarle Group's business.

(c) In performing its obligations under or in connection with the Contract, the Contractor shall ensure that it and its Personnel do not engage in any conduct or omission which may contravene any of the Anticorruption Laws.

55.6 Notification regarding change of interests

(a) The Contractor shall notify the Company promptly after becoming aware of any Official who acquires a direct or indirect ownership in the Contractor or any of its Related Bodies Corporate.

(b) For the purposes of clause 55, merely holding shares in the Contractor or its Related Body Corporate that is publicly listed on a recognised stock exchange does not of itself constitute ownership unless the legal or beneficial interest amounts to a shareholding of [5%] or more.

55.7 Notification of breaches and consequences

(a) The Contractor shall promptly notify the Company if it becomes aware of a potential, suspected or actual breach of:

(i) this clause 55; or

(ii) any Anticorruption Laws.

(b) The Parties shall meet to discuss the appropriate next steps as soon as reasonably practicable after such notification.

(c) The Contractor shall cooperate in good faith with the Company in investigating the circumstances relevant to any potential, suspected or actual breach (whether or not there has been notification under clause 55.7(a).

(d) If the Company determines in its absolute discretion that:

(i) there has been a breach of this clause 55; or

(ii) the Contractor or the Contractor Personnel has been involved in any conduct that may create a material risk of Liability under any Anticorruption Law,

the Company shall have the right to terminate the Contract immediately upon written notice to Contractor. This termination right is without prejudice to other remedies that Company may have under the Contract or at law.

(e) If the breach is related to any amounts already invoiced, the Contractor will promptly adjust the relevant invoice(s) or refund overpayments as appropriate.

55.8 Obligation to indemnify

(a) The Contractor shall indemnify the Company and the Albemarle Group in respect of any Liability incurred as a result of the Contractor's breach of this clause 55.

(b) The Contractor's obligation to indemnify under clause 55.8(a) is not limited by any contractual limit on liability.

55.9 Establishment of policies and processes

(a) The Contractor shall establish and maintain policies and procedures to:

(i) ensure that the Contractor and its Personnel comply with the obligations set out in this clause 55; and

(ii) keep records of the giving or receiving of gifts, entertainment, payments, loans or other benefits.

(b) The Contractor shall ensure that:

(i) its policies and procedures as contemplated in this clause 55.9 contain requirements that appropriate training will be provided to its Personnel; and

(ii) its Personnel performing the Works shall undertake such training and that records of each individual's attendance is retained.

55.10 Reporting

(a) When requested by the Company (but no more frequently than once every [6] months), the Contractor shall provide a detailed report on its compliance with the requirements of this clause 55.

(b) The report contemplated in clause 55.10(a) shall contain any additional information the Company may reasonably require from time to time.

56. Anti-slavery

56.1 Definitions

For the purposes of this clause 56:

Anti-Slavery Laws means:

(a) Division 270 and 271 of the *Criminal Code Act 1995* (Cth);

(b) the *Modern Slavery Act 2015* of the United Kingdom;

(c) [the *Modern Slavery Act 2018* (Cth)]; and

(d) any other Relevant Law which prohibits exploitation of a worker, human trafficking, slavery, slavery-like behaviour, servitude, forced labour, child labour, debt bondage or deceptive recruiting for labour or services (or similar), and is applicable in the jurisdiction in which the Company and the Contractor are registered or conduct business or in which activities relevant to the Work are to be performed.

Company Policies and Standards means the policies, codes and principles referred to in Schedule 5 published by the Company, and such other policies, codes and principles notified by the Company to the Contractor.

Relevant Law includes orders and awards of any Government Agency, legislation, ordinances, rules, guidelines, regulations, by-laws and proclamations that may be applicable in connection with the performance of the Works.

56.2 Compliance with anti-slavery requirements

(a) The Contractor must ensure (and must ensure that the Contractor's Personnel), when performing its obligations under the Contract, comply with:

(i) all applicable Anti-Slavery Laws; and

(ii) Company Policies and Standards relating to anti-slavery.

(b) Without limiting the Contractor's obligations, the Contractor must establish, maintain and implement policies and procedures (including training and ensuring it maintains accurate and complete records of attendance at training) to ensure the Contractor and the Contractor's Personnel comply with the obligations in this clause 56.

(c) The Contractor must ensure its Subcontracts:

(i) include obligations on the relevant Subcontractors that are equivalent to the obligations in clause 56.2(a), clause 56.3 and clause 56.6; and

(ii) permit termination of such relationships where the Contractor has reasonable grounds to believe there has been, or is likely to be a breach of any applicable Anti-Slavery Laws by the Subcontractors.

56.3 Contractor to provide assistance to the Company

The Contractor must (at the Contractor's cost) provide all reasonable assistance (including the provision of information and access to documents and the Contractor's Personnel as the Company may require) to the Company to enable the Company to comply with its obligations under the Anti-Slavery Laws.

56.4 Provision of information regarding slavery

From the Commencement Date, the Contractor must immediately notify and provide full particulars to the Company upon becoming aware:

(a) that it or any of the Contractor's Personnel have breached clause 56.2(a);

(b) of any conduct which may give rise to a breach of clause 56.2(a) by either the Contractor or the Contractor's Personnel; or

(c) that it or any of the Contractor's Personnel have been found guilty by a court of, or have admitted guilt or accepted liability in relation to, a contravention of any Anti-Slavery Laws.

56.5 Response to breaches

If the Contractor gives a notice under clause 56.4, or the Company otherwise becomes aware or has a reasonable suspicion of any breach of clause 56.2, clause 56.3, clause 56.4 or clause 56.5 or any conduct which may give risk to a breach of any of those provisions (**Anti-slavery breach**), the Company may in its absolute discretion do one or more of the following:

(a) request the Contractor to provide all information that the Company reasonably requires in relation to the alleged Anti-slavery breach;

(b) request the Contractor to assist the Company with any investigation that the Company wishes to conduct into the alleged Anti-slavery breach; or

(c) request the Contractor to:

(i) prepare, document and implement a corrective action plan to address any failure by the Contractor to comply with clause 56.2, clause 56.3, clause 56.4 or clause 56.5, or to mitigate the risk, damage or potential damage arising from the Anti-slavery breach, including:

(ii) constitute an approval of:

(A) the termination of any relationship between the Contractor and Contractor's Personnel involved in the Anti-slavery breach; or

(B) procuring Contractor's Personnel to prepare, document and implement corrective action plans; and

(iii) confirm to the Company in writing that such measures have been implemented.

56.6 Termination by Company

If the Contractor or Contractor's Personnel:

(a) are found guilty by a court of, or admit guilt or accept liability in relation to, a contravention of any Anti-Slavery Laws; or

(b) breach clause 56.2, clause 56.3, clause 56.4 or clause 56.5 including if the Contractor or Contractor's Personnel have:

(i) failed to comply with any Anti-Slavery Laws; or

(ii) failed to implement a corrective action plan under clause 56.5(c) after a request to do so from the Company,

then (notwithstanding any other clause of this Contract and without limitation to any other right or remedy available to the Company) the Company may:

(c) propose to the Contractor any revised terms under which the Company is prepared to continue the performance of this Contract and, if those terms are not agreed by the parties within the time specified in the Company's proposal, terminate this Contract by giving ten days' notice in writing to the Contractor; or

(d) terminate this Contract under clause 47.

57. Parties' representations

Each Party represents to the other Party that, as at the date of the Contract and for the term of the Contract:

(a) it is a company duly incorporated, properly organised and validly existing in good standing under the laws of jurisdiction of its incorporation;

(b) it has the corporate power to enter into, and to perform all of its obligations under, the Contract;

(c) it is properly licensed, equipped, organised and financed to perform all its obligations under the Contract and that there are no contracts injunctions, governmental or any mandate in existence that would affect the Party's ability to perform its obligations under the Contract in a timely and satisfactory manner;

(d) the Contract has been validly executed by it and constitutes valid and binding obligations of each such Party, enforceable according to its terms; and

(e) the execution of the Contract and the performance of the Party's obligations under the Contract do not and will not result in the breach of:

(i) the terms of, or constitute a default under, any agreement or undertaking (whether verbal or written) or any instrument to which the Party may be affected or bound; or

(ii) any lawful order, writ, rule, regulation, injunction or decree of any court or Government Agency or any legislation applicable to the Party by which the Party may be bound.

58. Status of Contractor

Subject to this clause 58, at all times during the term of the Contract the provision of the Works, the Contractor:

(a) is, an independent contractor of the Company and will not act as, or be or be regarded as, an agent or employee of the Company; and

(b) has no authority to bind the Company or any member of the Albemarle Group in any way by any warranty, agreement, contract, representation or order, whether written or oral unless expressly permitted by the Contract or with the prior agreement of the Company Representative.

59. Role of EPCM Contractor

(a) The Contractor acknowledges and agrees that:

(i) the Company has appointed the EPCM Contractor for the purposes of (amongst other things) managing the Site and the construction works on behalf of the Company; and

(ii) the EPCM Contractor will act as a limited agent of the Company in respect of the Company's rights and obligations under the Contract.

(b) The Contractor acknowledges and agrees that unless otherwise notified by the Company, the EPCM Contractor is authorised to exercise the Company's rights and discharge the Company's obligations under the Contract as agent of the Company.

(c) Notwithstanding the appointment of an EPCM Contractor, the Company's obligations in relation to the payment of the Contractor under this Contract will be retained by Company.

(d) To avoid doubt, any claim made by the Contractor against the EPCM Contractor in its capacity as agent of the Company as contemplated under clause 59(a):

(i) can only be made to the extent that such a claim could be brought against the Company; and

(ii) is subject to the same limitations under the Contract, including under clause 45.

60. Assignment and change of control

60.1 Assignment by Contractor

(a) The Contractor is not permitted to Assign the Contract without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed).

(b) The Contractor acknowledges that no permitted Assignment in any way relieves the Contractor from the performance of any of its obligations under the Contract.

60.2 Assignment by Company

(a) Subject to clause 60.2(b), the Company is not permitted to Assign without the prior written consent of the Contractor, such consent not to be unreasonably withheld or delayed.

(b) The Company may, at any time and without consent from the Contractor, Assign:

(i) to any entity that is part of the Albemarle Group; or

(ii) to a special purpose vehicle or joint venture party where the vehicle or joint venture was created for the purpose of owning or receiving the benefit of the Project or managing the Project on behalf of the Company.

(c) The Contractor agrees to execute, and to require its Subcontractors to execute, such documents and do such things (including delivering an executed deed of novation in a form required by the Company) as and when requested by the Company to do so in order to enable or facilitate such Assignment under clause 60.2(b).

60.3 Change of Control

(a) Subject to clause 60.3(b), the Contractor must not permit any change in the Control of the Contractor or any entity that Controls the Contractor, in either case whether by a single transaction or event or a series of transactions or events, without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed).

(b) The Company's consent will not be required if the change in Control occurs by reason of an issue of, or dealings in, securities listed on the ASX or another recognised stock exchange.

61. Subcontracting

(a) The Contractor is not permitted to subcontract all or any part of the Works without the prior written consent of the Company, other than a subcontract of part of the Works to a Related Body Corporate of the Contractor that possesses the requisite technical expertise, and the financial and human resources to properly undertake the subcontracted Works in accordance with the Contract.

(b) If the proposed subcontractor is Key Subcontractor it will be reasonable for the Company to withhold its consent under clause 61(a) unless and until the Contractor, the Company and the proposed subcontractor have entered into a Side Deed

(c) As between the Contractor and the Company the acts and omissions of each Subcontractor their Personnel and their respective subcontractors of any level will be deemed to be the acts and omissions of the Contractor and the Contractor accepts full responsibility for those acts and omissions.

(d) The Contractor must ensure that each of its Subcontracts provide that if the Company takes the Contract or any part thereof out of the Contractor's hands because of the default or failure of the Contractor, the Subcontractor shall, at the Company's request, agree to novate the Subcontract to the Company and execute any documents necessary for the Company to exercise its rights under this clause 61(d).

(e) The Contractor must procure that under each Subcontract, the Subcontractor:

(i) warrants that the services, equipment and goods provided in connection with the Works will be free from defects, including quality, safety and latent defects, be of merchantable quality and be fit for their intended purposes;

(ii) will provide any and all warranties and other similar rights and benefits under the Subcontract for the benefit of the Company or its successors-in-title; and

(iii) is subject to:

(A) equivalent obligations as the Contractor has to the Company under clauses 7.1, 8, 39.1, 50, 52, 53, 55, 57, and 61 of the Contract; and *[Note: list to be finalised prior to contract execution.]*

(B) appropriate obligations in relation to health and safety, industrial relations and environmental management which are consistent with the Contactor's obligations under the Contract.

(f) The Contractor shall take all reasonable steps to enforce all warranties and other rights and benefits under the Subcontracts, including for the benefit of the Company where appropriate.

(g) If the Contractor fails to enforce such warranties, the Company may enforce all warranties and other rights and benefits under the Subcontracts for the benefit of the Company, and all expenses incurred by the Company in doing so shall be borne by the Contractor.

62. Privacy Act

(a) The Contractor must:

(i) ensure that any collection, processing, use, disclosure and transfer by the Contractor, its Personnel and its Subcontractors of Personal Information in connection with the performance of its obligations under the Contract complies with all applicable laws and any applicable Company policies;

(ii) use, hold, store, transfer and disclose Personal Information provided under or in connection with the Contract only to the extent required for the performance of its obligations under the Contract and not separately for the benefit of the Contractor, unless the Contractor has the prior written consent of the Company or is otherwise required by law; and

(iii) ensure that the Personal Information is treated as Confidential Information and when the Personal Information is no longer needed for a purpose connected to the Contract all reasonable steps are taken to destroy or permanently de-identify the information within 30 days.

(b) The Contractor must take all necessary steps to ensure that the Personal Information held or accessed by it in connection with the Contract is protected against misuse, interference and loss, and from unauthorised access, modification and disclosure (**Data Breach**).

(c) The Contractor must promptly notify the Company of any actual or suspected Data Breach and will provide information, assistance and other cooperation as requested by the Company, and if the Contractor believes that a Data Breach is an Eligible Data Breach, or has reasonable grounds to suspect that a Data Breach amounts to an Eligible Data Breach in relation to any Personal Information which the Contractor holds in respect of the Contract, the Contractor must:

(i) as soon as possible, but within two Business Days, notify the Company;

(ii) comply with its obligations under the Privacy Act in relation to that event, including the conduct of an assessment of the suspected Eligible Data Breach;

(iii) provide the Company with all information reasonably requested by the Company about the event;

(iv) if requested by the Company, acting reasonably, allow the Company to participate in the Contractor's assessment of the event and whether it amounts to an Eligible Data Breach;

(v) if after complying with clause 62(c)(iv), determines that an Eligible Data Breach has occurred and notification of that Eligible Data Breach is required under the Privacy Act, meet to discuss with the Company and endeavour to agree who will issue the notification (but if the parties are unable to agree, then the Company will,

acting reasonably, decide which party will issue that notification and if the Company elects to issue the notification it must at the Contractor's request include the Contractor's details in the notification); and

(vi) ensure that the Company is promptly notified of any investigation or other action taking by the Information Commissioner in connection with any actual or suspected Eligible Data Breach, or other notification in relation to that matter, and keep the Company informed in relation to that investigation or other action.

(d) In addition to the obligations in clause 62(c), the Contractor must co-operate with any reasonable requests or directions of the Company relating to, and must refer to the Company any complaints, requests or notices it receives in respect of:

(i) the security, use, disclosure, transfer and erasure of Personal Information;

(ii) the Company's legal obligations relating to the Personal Information;

(iii) complaints relating to the Personal Information; and

(iv) the rights of individuals to access and correct their Personal Information or opt out of receiving any communications.

(e) The Contractor must obtain the Company's prior written consent before disclosing the Personal Information to any person outside Australia (including to the Contractor's own Personnel) including in circumstances where the Personal Information is held in Australia but is accessible by a person outside Australia.

63. Proportionate liability

The operation of Part 1F of the *Civil Liability Act 2002* (WA) is excluded in relation to all and any rights, obligations and liabilities arising out of or in connection with the Contract whether such rights, obligations or liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity or otherwise at law.

64. Personal Property Securities Act

64.1 PPSA security interests

(a) A term used in the PPSA has the same meaning when used in this clause 64.

(b) The Contractor acknowledges that the Contract gives rise, or may give rise, to one or more security interests.

(c) To the extent that any such security interest can be perfected by control, the Contractor must do anything required by the Company to enable the Company to perfect that security interest by control.

(d) To the extent that any such security interest is over personal property of a type referred to in section 340(5) of the PPSA, the Contractor must do anything required by the Company to enable the Company to control that property for the purposes of section 340(2)(b) of the PPSA.

64.2 PPSA information undertakings

The Contractor must give the Company:

(a) (**registration information**) promptly on request all information required by the Company to ensure that any registration of any security interest provided for by the Contract is, and remains, fully effective or perfected (or both), and that each security interest has the priority required by the Company; and

(b) (**change in name or other details**):

(i) at least [30 insert as required] Business Days' prior notice of any change to its name, together with details of the proposed new name; or

(ii) at least [30 insert as required] Business Days' notice before anything happens in respect of the Contractor, any of its subsidiaries and any borrower or guarantor or any secured property that would cause any information in a financing statement in relation to the Contractor's security interests to be different if it were re-registered.

64.3 No postponement or subordination

(a) Nothing in the Contract may be taken as an agreement that any PPSA security interest provided for by the Contract attaches later than the time contemplated by section 19(2) of the PPSA.

(b) The Contractor acknowledges that the Company has not agreed to subordinate any PPSA security interest provided for by the Contract in favour of any third party.

64.4 PPS security interest continues despite dealing

If the Contractor attempts to dispose of or otherwise deal with any personal property that is subject to a PPSA security interest in favour of the Company, the Contractor acknowledges that, despite the disposal or dealing:

(a) the Company has not authorised the disposal or agreed that the dealing would extinguish the Company's PPS security interest; and

(b) the Company's PPSA security interest continues in that property.

64.5 Authority to register and waiver of right to receive verification statements

The Contractor acknowledges that the Company may, at the Contractor's cost, register one or more financing statements in relation to any PPSA security interests provided for by the Contract. If permitted by the PPSA, the Contractor waives its rights under section 157 of the PPSA to receive notice of any verification statement relating to the registration of any such financing statement or any related financing change statement.

64.6 PPSA confidentiality

(a) In this clause 64.6, all references to sections are to sections in the PPSA.

(b) The Parties must not disclose information of the kind mentioned in section 275(1), except in the circumstances required by sections 275(7)(b) to (e). The Contractor must obtain the Company's consent before authorising the disclosure of information under section 275(7)(c) or requesting information under section 275(7)(d). Nothing in this clause prevents any disclosure by the Company that it believes is necessary to comply with its other obligations under the PPSA.

64.7 Contracting out of the PPSA

To the extent that Chapter 4 of the PPSA would otherwise apply to an enforcement by the Company of any PPSA security interest provided for by the Contract, the parties agree that sections 95, 118, 121(4), 125, 127, 129(2) and (3), 130, 132, 134(2), 135, 136(5), 137, 138B(4) 142 and 143 of the PPSA do not apply, to the extent the PPSA allows them to be excluded.

65. Dispute Resolution

65.1 Dispute

(a) The Parties agree that any dispute, question or difference of opinion between the Company and the Contractor arising out of or in connection with the Contract, will be resolved in accordance with this clause 65

(b) It is a condition precedent to the commencement of proceedings for the resolution of a Dispute under clause 65.2(d), that the Parties have first complied with clauses 65.2(a), 65.2(b) and 65.2(c).

65.2 Dispute Representatives to seek resolution

(a) If a Dispute arises, then either Party must give to the other Party's Representative a notice (**Dispute Notice**) specifying adequate details of the Dispute and requiring its resolution under this clause 65.

(b) If the Dispute is not resolved within [10] Business Days after a Dispute Notice is given to the other Party's Representative, each Party must nominate one representative from its management to resolve the Dispute (each a **Dispute Representative**).

(c) If the Dispute is not resolved within [15] Business Days of the Dispute being referred to the respective Dispute Representatives, each Party must nominate one representative from its senior management to resolve the Dispute (each a **Senior Representative**).

(d) If the Dispute is not resolved within [20] Business Days of the Dispute being referred to the respective Senior Representatives, either Party may:

(i) if the Contract expressly requires, or if the Parties agree, refer the Dispute to expert determination in accordance with clause 65.3 (**Expert Determination Notice**); or

(ii) refer the Dispute to arbitration in accordance with clause 65.4.

65.3 Expert determination

(a) An Expert is a person, having the qualification set out in clause 65.3(b) below:

(i) selected by the Parties within [10] Business Days after the Expert Determination Notice is given; or

(ii) if the Parties fail to agree as to the Expert, [a person nominated by the President at the time of the Resolution Institute (WA Chapter)] who must choose the expert on the basis of the type of Dispute and the nature of the expertise necessary to consider the relevant issues.

(b) An Expert must:

(i) have suitable and reasonable qualifications as well as commercial and practical experience in the area of the Dispute;

(ii) be independent of each Party and not be, or have been, an employee, agent, contractor, advisor or consultant of either Party;

(iii) have at least [10] years' post qualification experience in his or her expert field; and

(iv) have no interest or duty which conflicts or may conflict with the Expert's function as an expert.

(c) If an Expert Determination Notice is given:

(i) the Parties must, within [5] Business Days after an Expert is selected or nominated, arrange for the Expert to be appointed; and

(ii) each Party must use its reasonable efforts to provide the Expert with any information reasonably required by the Expert and in any event each Party must provide the Expert with its preferred position in relation to the Dispute based on its understanding of the relevant facts.

(d) The Expert acts as an expert and not as an arbitrator.

(e) The Parties agree that:

(i) the Dispute is to be resolved according to the rules of the Resolution Institute (WA Chapter), current as at the date the Expert Determination Notice is given (**Expert Determination Rules**); and

(ii) they must abide by the Expert Determination Rules and must procure the Expert's agreement to resolve the Dispute according to those rules.

(f) The Parties must use their best efforts to enable the Expert to give the Parties a written decision within [30] Business Days after the Dispute is referred to the Expert.

(g) In the absence of manifest error, the Expert's decision is final and binding on the Parties.

(h) The Expert must give reasons for the decision.

(i) Each party must pay an equal proportion of the Expert's costs and the costs of the Expert's advisers unless the Expert, in its absolute discretion, decides otherwise.

65.4 Arbitration

(a) All Disputes are to be settled by final and binding arbitration unless clause 65.2(d)(i) applies or as otherwise agreed.

(b) The arbitration will be conducted in accordance with the Australian Centre for International Commercial Arbitration Rules (**ACICA Rules**).

(c) The arbitral tribunal will consist of three arbitrators appointed in accordance with the ACICA Rules.

(d) Perth, Western Australia will be the place of arbitration.

(e) The arbitration will be conducted in English.

65.5 Performance of obligations during Dispute

During the existence of any Dispute, the Parties must continue to perform all of their obligations under the Contract (except for the payment of any money that is the subject of the Dispute) without prejudice to their position in respect of such Dispute.

65.6 Urgent interlocutory relief

Nothing in this clause 65 will prevent a Party from applying for injunctive or interlocutory relief in any court of competent jurisdiction, to protect its legitimate interests, including the following:

(a) breach or threatened breach in relation to its Confidential Information;

(b) infringement or threatened infringement of its Intellectual Property Rights; or

(c) infringement or threatened infringement of the Intellectual Property Rights of a third party, where such infringement could expose the Party in question to liability.

65.7 Related Project Dispute

(a) If any Dispute raises issues which are substantially the same as, or connected with or touch upon, or concern issues raised in any other dispute or difference arising out of or in connection with the Project, then the Company may (acting reasonably) require, and the Contractor must consent to, those disputes to be consolidated into a single arbitration or expert determination (as applicable).

(b) The Parties to the Dispute shall be bound by any directions or orders made by the Expert or arbitrator (as applicable) in relation to the consolidation of the proceedings.

66. Notices

66.1 Form of notices

Any notice, demand, approval, consent or other communication given or made under the Contract:

(a) must be in writing and in English. The Contractor is responsible for any required translations at no cost to the Company. Translations must be certified as correct by a licensed translator;

(b) must, where given by the Contractor, be signed by the Contractor Representative;

(c) must, where given by the Company, be signed by the Company Representative; and

(d) may be delivered by:

(i) prepaid post, by hand or by facsimile to the Party to whom the notice is addressed at its address shown in the Details page at the front of the Contract or such other address as that Party may have notified to the other Party; or

(ii) email to the Party to whom the notice is addressed at its email address in the Details page at the front of the Contract or such other email address as that Party may have notified to the other Party, provided that the email is followed up immediately in writing under clause 66.1(d)(i).

66.2 Notices deemed given

A notice will be taken to be duly given:

(a) in the case of delivery by hand, when delivered;

(b) in the case of delivery by courier or notary delivered notices, [5] Business Days after the date of posting (if posted to an address in the same country) or [10] Business Days after the date of posting (if posted to an address in another country);

(c) in the case of facsimile, on receipt by the sender of a transmission control report from the dispatching machine showing the relevant number of pages and the correct destination fax machine number or name of the recipient and indicating that the transmission has been made without error; or

(d) in the case of email and subject to compliance with 66.1(d)(ii), on the date of sending if sent prior to 4:00 p.m. local time on a Business Day at the physical address of the intended recipient, provided the sender does not receive an email message showing the failure of the email to be delivered. Non-receipt by the sender within 2 hours of sending of an email message showing the failure of the email to be delivered shall constitute prima facie evidence that the email was sent and received,

but if the result is that a notice would be taken to be given or made on a day that is not a Business Day or the notice is received later than 4:00pm (local time) at the place of receipt, it will be taken to have been duly given or made at the commencement of business on the next Business Day.

66.3 Email notices with attachments

In relation to a notice sent by email with attached files:

(a) if the attached files are more than 3 MB in total, then:

(i) at the time of dispatch the giver of the email must send a separate email without attachments notifying the recipient of the dispatch of the email; and

(ii) if the recipient notifies the sender that it did not receive the email with attached files, and the maximum size that it is able to receive under its firewalls, then the sender shall promptly send to the recipient the attached files in a manner that can be received by the recipient;

(b) if the recipient of the email notifies the sender that it is unable to read the format of an attached file or that an attached file is corrupted, specifying appropriate and commonly used formats that it is able to read, the sender must promptly send to the recipient the file in one of those formats or send the attachment in some other manner; and

(c) if within 2 hours of:

(i) dispatch if between 9:00am and 4:00pm (local time) at the place of receipt; or

(ii) 09:00am (local time) on the next Business Day the next opening of business at the place of receipt,

the recipient notifies the sender as provided in clauses 66.3(a)(ii) or 66.3(b), then the relevant attached files will be taken not to have been received until the sender complies with that clause.

67. Notification of Claims

67.1 Communication of Claims

(a) A **prescribed notice** is a notice which must include:

(i) an outline of the legal basis of the relevant Claim;

(ii) full details of the quantum of the Claim;

(iii) the facts relied on in support of each aspect of the relevant Claim; and

(iv) whether the Contractor is of the opinion that the Claim gives rise to an entitlement to an adjustment of the Target Outturn Cost or the Program and, if so, an estimate of such adjustments.

(b) As soon as practicable and, in any event, no later than [10] Business Days, after the first occurrence of the events or circumstances giving rise to any Claim, the Contractor shall give to the Company the prescribed notice.

(c) This clause shall not apply to any Claim, including a claim for payment under clause 33, the communication of which is expressly required by another provision of the Contract.

67.2 Liability for failure to communicate

The Contractor's strict compliance with clause 67.1(b) shall be a condition precedent to the Contractor becoming entitled to a Claim.

67.3 Resolution

If within [30] days of giving the prescribed notice in accordance with clause 67.1(b), the Claim has not been resolved, the prescribed notice shall be deemed to be a Dispute Notice under clause 65.

68. Waiver

(a) A failure to exercise, or any delay in exercising any right, power or remedy by a Party does not operate as a waiver.

(b) A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.

(c) A waiver is not valid or binding on the Party granting that waiver unless made in writing.

69. Further assurances

The Contractor agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of the Contract.

70. Severability

Any provision of the Contract which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. This does not invalidate the remaining provisions of the Contract nor does it affect the validity or enforceability of that provision in any other jurisdiction.

71. Costs

Each Party must bear its own costs arising out of or in connection with:

(a) the negotiation, preparation and execution of the Contract; and

(b) except as expressly provided otherwise in the Contract, any transaction contemplated by the Contract.

72. Entire agreement

(a) The Contract contains the entire agreement between the Parties with respect to its subject matter and supersedes all prior communications and negotiations whether written or oral and all letters of intent, term sheets, notices of award, purchase orders, understandings, representations and documents (if any) or any performance given prior to the

Commencement Date, unless the Parties expressly and in writing agree for those communications to form part of the Contract and to become part of clause 2.1.

(b) If the Contractor provides, refers to, submits or otherwise uses terms and conditions other than those included in the Contract (including as part of the submission of an invoice) such terms and conditions will not form part of, or be incorporated into, the Contract.

(c) Where items supplied under the Contract are accompanied by the Contractor's documentation, acceptance of the items or documentation by the Company is limited to an acknowledgement of receipt or delivery of the items so supplied and not of the Contractor's documentation.

73. Amendment to be in writing

No amendment or variation of the Contract is valid or binding on a Party unless made in writing and signed by both of the Parties.

74. Counterparts

The Contract may consist of a number of executed counterparts and, if so, the counterparts taken together constitute one document.

75. Governing Law

The Contract is governed by and is to be construed in accordance with the laws of Western Australia. Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Western Australia.

Signing page

EXECUTED as a deed.

Signed, sealed and delivered by **Albemarle Lithium Pty Ltd** in accordance with Section 127 of the *Corporations Act 2001*

Signature of director	Signature of director/company secretary (Please delete as applicable)
Name of director (print)	Name of director/company secretary (print)

Signed, sealed and delivered by **[*insert*]** in accordance with Section 127 of the *Corporations Act 2001*

Signature of director	Signature of director/company secretary (Please delete as applicable)
Name of director (print)	Name of director/company secretary (print)

Schedule 1 – Scope of Works

Schedule 2 – Program

Schedule 3 – Key Personnel

Position	Name
Project manager (Contractor's Representative)	
Construction manager	
HSSE manager	
Fabrication Project Manager	
Project Controls Manager	
Commercial Manager	

Schedule 4 – Project Approvals

[Note: Company to populate this schedule.]

Schedule 5 – Company Policies and Standards

[Note: schedule to be populated by the Company, and to include Company's Quality Assurance / Quality Control Requirements]

Schedule 6 – Progress Reporting

Schedule 7 – Contractor Performance

Schedule 8 – Schedule of Rates

Schedule 9 – Form of Bank Guarantee

Schedule 10 – Form of Parent Company Guarantee

Schedule 11 – Form of Deed of Release

To: Albemarle Lithium Pty Ltd

Date: [insert]

(a) This Release is executed pursuant to the provisions of the Works Contract dated [insert] between Albemarle Lithium Pty Ltd (**Company**) and [insert] (**Contractor**) (the **Contract**).

(b) Unless otherwise defined in this Release, capitalised terms in this Release are defined in the Contract.

(c) In accordance with clause 33.10(c) of the Contract, and in consideration of the return of the Security less any deductions the Company is entitled to make pursuant to the Contract, and the payment of the Final Invoice, the Contractor hereby waives, releases and discharges the Company from all claims, demands, debts, accounts, expenses which the Contractor has or might have against the Company arising under the Contract or out of its performance of the Contract.

Executed as a deed

Signed, sealed and delivered by **[*insert*]** in accordance with Section 127 of the *Corporations Act 2001*

Signature of director	Signature of director/company secretary (Please delete as applicable)
Name of director (print)	Name of director/company secretary (print)

Schedule 12 – Rely Upon Information

Schedule 13 – Insurances and Coverage

Schedule 14 – Key Subcontractors

Schedule 15 – Subcontractor Side Deed

Schedule 16 – Interface Deed