



DEFINITIONS

In these Standard Terms and Conditions of Purchase:

"Neptune" means the entity ordering the Works as specified on the Order.

"Neptune's Contractors" means;

- a. contractors of Neptune of any tier and their respective officers, employees and agents;
- b. clients of Neptune and their respective officers, employees and agents; and
- c. contractors of Neptune's clients of any tier and their respective officers, employees and agents.

"Neptune Group" means Neptune and its parent, affiliated and subsidiary companies, and its and their respective officers, employees and agents.

"Order" means all purchase orders which Neptune may place with the Supplier.

"Supplier" means the party named on the Order who is bound to supply and deliver the Works.

"Supplier Group" means the Supplier and its parent, affiliated and subsidiary companies, and their contractors of any tier and its and their respective officers, employees and agents.

"Terms and Conditions" means the terms and conditions set out below.

"Work" means the materials, products, equipment, services, information or data as specified in the Order.

GENERAL CONDITIONS

1. Terms

- 1.1 Subject to clauses 1.2 and 1.3 below, these Terms and Conditions will apply to all Orders unless otherwise explicitly stated in the Order and will prevail over any terms or conditions of the Supplier.
- 1.2 The order of precedence will be:
 - 1.2.1 the terms contained in the Order (including any attachments);
 - 1.2.2 the terms contained in these Terms and Conditions to the extent of any inconsistency between the two.
- 1.3 If Neptune enters into a fully signed supply agreement ("**Supply Agreement**") with the Supplier, then the order of precedence will be:
 - 1.3.1 the terms contained in an Order (including any attachments);
 - 1.3.2 the terms of the Supply Agreement;
 - 1.3.3 these Terms and Conditions to the extent of any inconsistency between the three.
- 1.4 Any modifications to Orders or these Terms and Conditions must be in writing and signed by an authorised representative of Neptune.

2 Acknowledgement and Acceptance of Order

- 2.1 An Order will be deemed to have been accepted by the Supplier upon the earlier of:
 - 2.1.1 Commencement of the performance of Work by the Supplier;
 - 2.1.2 delivery or completion of the Works or any part of thereof; or
 - 2.1.3 Five days following the Supplier's receipt of an Order.

- 2.2 By acceptance of the Order, the Supplier agrees to be bound by and comply with these Terms and Conditions.

- 2.3 The Order, any Supply Agreement and these Terms and Conditions comprise the entire agreement between the parties in relation to the Order and supersede all prior negotiations, representations and/or agreements relating to the Order whether oral or in writing.

3 Revision

- 3.1 Neptune reserves the right at any time prior to delivery or completion of the Works to make a revision to the Order to correct any errors or omissions or to make any changes to the Works which may include additions or reductions to the Works ("**Revision**").
- 3.2 Upon receipt of a Revision from Neptune, the parties will in good faith negotiate any increase or reduction in the quoted price for the relevant Order and any changes to the delivery timeframes associated with the Revision. Where appropriate the basis of computation of any increase or decrease in the quoted price will be by reference to the Supplier's rates under the existing Order.
- 3.3 Once the parties have reached agreement as to the revised price and delivery timeframe as a result of the Revision, Neptune will issue a new Order which will refer to the previous order number and the revision number.

4 Completion and Delivery

- 4.1 The Works will be completed by the delivery date specified in the Order as varied by any Revision.
- 4.2 The Supplier will provide (at its own expense) such information as necessary concerning the status and progress of the Works as Neptune reasonably requests from time to time to ensure that the Works are completed by the delivery date specified in the Order.
- 4.3 The Supplier, at its expense, will package and deliver all goods strictly in accordance with good industry practice, all applicable laws as well as the delivery instructions and terms of the Order. **THE SUPPLIER WILL RELEASE, DEFEND AND INDEMNIFY THE NEPTUNE GROUP IN RESPECT OF ALL LOSS, EXPENSES, DAMAGES, CLAIMS AND LIABILITY INCURRED BY THE NEPTUNE GROUP IF THE SUPPLIER FAILS TO COMPLY WITH ITS OBLIGATIONS IN RESPECT OF THIS CLAUSE 4.3.**
- 4.4 Delivery of goods will occur at Neptune's designated location. Unless otherwise stated in the Order, the Supplier, will at its cost, unload goods at Neptune's designated location.
- 4.5 The Supplier will be liable for all or any damage, loss or destruction to any goods or property resulting from improper packaging or handling by the Supplier.
- 4.6 If the Supplier fails to commence performance of the Works or if it appears to Neptune that the Supplier may not be able to complete or deliver the Works on the delivery date specified in the Order, Neptune and the Supplier shall use reasonable endeavours to agree a mutually acceptable revised delivery date. However in the event that Neptune and the Supplier cannot agree, Neptune may in its absolute discretion elect to terminate the Order.
- 4.7 The Supplier will release, defend and indemnify the Neptune Group for all loss, expenses, damages, claims and liability



incurred by the Neptune Group as a result of any delay or failure by the Supplier to complete or deliver the Works by the delivery date specified in the Order.

- 4.8 At completion and/or delivery of the Works, the Supplier will provide Neptune with all drawings, certificates and other documentation as may be required by Neptune. The Supplier shall give sufficient notice to Neptune of its intention to cease supply of any component parts or replacements for goods, to enable Neptune to purchase such component parts or replacements goods from the Supplier, should Neptune so wish.
- 4.9 Time is of the essence in relation to the Supplier's obligation to deliver and/or complete the Works by the delivery date specified in the Order.

5 Title and Risk

- 5.1 Title to and property in the Works will pass to Neptune upon the earlier of:
- 5.1.1 payment of any part of the Order price by Neptune;
- 5.1.2 in respect of goods, delivery of the goods to Neptune's designated location; or
- 5.1.3 completion of the Works by the Supplier
- 5.2 Works paid for but not yet delivered or completed by the Supplier will be appropriately marked, segregated and identified as the property of Neptune.
- 5.3 Risk in the Works will remain with the Supplier until;
- 5.3.1 in respect of goods, delivery of the goods, to Neptune's satisfaction, at Neptune's designated location; or
- 5.3.2 completion of the Works by the Supplier, whichever is the later.
- 5.4 Risk in the Works and/or any part of them that do not comply with the requirements of the Order and which are rejected by Neptune shall revert to the Supplier.
- 5.5 Subject to clause 5.6 below, the Supplier will reimburse Neptune for any loss or damage to the Works while risk in the Works rests with the Supplier.
- 5.6 Where the Works are destroyed or damaged prior to completion and/or delivery to Neptune's designated location and acceptance by Neptune, Neptune (in its absolute discretion) may cancel the Order and where any payment has been made by Neptune, the Supplier will immediately refund the monies paid by Neptune in relation to the Order.

6 Inspection and Rejection of Works

- 6.1 An authorised representative of Neptune will have the right but not the obligation to inspect and test all items of the Works prior to acceptance of the Works. The Supplier will allow Neptune access to Supplier's premises to expedite, inspect and test the Works.
- 6.2 Neptune, in its absolute discretion, will have the right to:
- 6.2.1 reject and/or return any item of the Works at the Supplier's expense that Neptune considers to be defective or inferior in quality of material, workmanship or design or which fails to comply with the Order; or

6.2.2 notify the Supplier in writing of any fault or defect of the Works or non-compliance with the Order.

- 6.3 If the Works are rejected and/or returned by Neptune in accordance with clauses 6.2.1 or 6.2.2 above, Neptune will have the right to either have Supplier repair or replace the Works or purchase similar Works elsewhere and to claim any additional expense incurred by Neptune from the Supplier. The Supplier will refund any payments received from Neptune in relation to the rejected or returned or re-performed Works.
- 6.4 The Supplier will provide and maintain an inspection and testing system for the Works acceptable to Neptune. The Supplier will maintain a record of all quality procedures and test data in relation to the Works for a period of not less than two years after completion of an Order and will provide such information to Neptune (including test certificates) at the request of Neptune.
- 6.5 The Supplier will make available at its own expense all tools, instruments, apparatus, facilities, services and materials for testing and inspection of the Works by Neptune.
- 6.6 Whether or not Neptune inspects, tests or accepts the Works, the Supplier will not be relieved from any responsibility regarding defects or other failures to meet the Order requirements which may be subsequently discovered, including latent defects.
- 6.7 Acceptance of the Works by Neptune will be deemed to have occurred if Neptune has not rejected or returned the Works in accordance with clause 6.2.1 or informed Supplier of a defect in accordance with clause 6.2.2 within seven days of completion of the Works or delivery of the Works at Neptune's designated location. Acceptance of the Works, for the avoidance of any doubt, will be without prejudice to Neptune's rights under clause 10.

7 Invoices/Payments

- 7.1 Unless otherwise stated in the Order, the total Order price as indicated in the Order is the currency specified in the Order and is fixed and firm, not subject to escalation for the duration of the Order, and includes all taxes, duties and other charges, packing, testing, delivery and documentation costs.
- 7.2 The Supplier must issue a tax invoice satisfying all requirements of the laws of the jurisdiction determined pursuant to clause 19.1 below ("Invoice").
- 7.3 Unless otherwise stated in the Order, payment of the Order price will be made in full within forty five days from the end of the month in which Neptune receives a correct and proper Invoice with relevant supporting documentation.
- 7.4 If Neptune disputes any Invoice then Neptune will promptly notify the Supplier of any such dispute. The Supplier will issue a credit note for the disputed value of the Invoice and upon receipt of this credit note Neptune will pay the undisputed portion of any such Invoice. At the earliest opportunity Neptune and the Supplier will endeavour to resolve any such dispute.
- 7.5 No claim for payment arising from the Order will be valid unless received by Neptune within six months of the date of completion of the Order.
- 7.6 Neptune has the right to set off any monies due to Neptune by the Supplier (whether in relation to the Order or any other



order submitted by Neptune to the Supplier) against monies owing to the Supplier by Neptune (whether in relation to the Order or any other order or contract submitted by Neptune to the Supplier).

8 Insurance

- 8.1 The Supplier will, at its sole cost, will effect and maintain adequate material loss or damage insurance for the full replacement value of the Works (including adequate transit insurance and also covering unloading if the Supplier is required to unload goods at Neptune's designated location).
- 8.2 Such insurance will cover the parties' respective rights and, if required by Neptune, will be in the joint names of the parties or the Neptune Group will be named as additional insured at Neptune's election. Coverage in respect of Neptune or the Neptune Group must be endorsed to be primary and non-contributory.
- 8.3 The Supplier will also carry the following insurances:
 - 8.3.1 Workers Compensation/Employer's Liability as required by law with (where legally permitted) an indemnity for Neptune (including its client as applicable). The Supplier will ensure that its sub-contractors have similarly insured its employees:
 - 8.3.2 Public & product liability insurance coverage satisfactory to Neptune; and
 - 8.3.3 Any other insurance required pursuant to Clause 16 (if applicable) or as required by law.
- 8.4 Upon request, the Supplier will provide Neptune with the certificates of insurance confirming coverage and copies of underlying policies.
- 8.5 The Supplier must ensure that the insurer provides an express waiver in favour of the Neptune Group of all rights, remedies or relief to which it might become entitled by way of subrogation.

9 Confidential Information and Intellectual Property

- 9.1 Any Order placed by Neptune will be treated as confidential and the Supplier will not make use of Neptune's name (or the name of any companies associated with Neptune) for publicity purposes without the prior written consent of Neptune.
- 9.2 Designs, drawings, specifications and information including software ("**Information**") which may be provided by Neptune in connection with the Order are confidential and will only be used for the purpose of the Order. Such information will not be disclosed to any third party without the prior written consent of Neptune and will remain the property of Neptune. All Information belonging to Neptune will be returned to Neptune at the conclusion of the Order.
- 9.3 All intellectual property rights in the "Neptune" name and logo and in any drawings, designs, reprints, patterns, technical information, data, translations, samples, tools or equipment and in all specifications or data furnished to the Supplier or prepared or made by the Supplier, Supplier's employees, agents or sub-contractors for the purpose of fulfilling the Order will vest in and remain Neptune's property and any property which is the subject of such intellectual property rights will be returned to Neptune immediately on request.

- 9.4 Unless otherwise agreed to in writing by Neptune, all drawings, models, specifications, and other documents including software prepared by or acquired by the Supplier in connection with the Works required by an Order will become Neptune's property. The Supplier hereby assigns any and all rights in relation to such documentation and will deliver such documentation to Neptune upon completion of the Order, or upon termination, abandonment, or postponement of the Order. Neptune will have full right to use such documents for any purpose without any claim on the Supplier's part for additional compensation for such use. The Supplier will not place any proprietary notice on such documents inconsistent with the proprietary rights of Neptune, and the Supplier authorises Neptune to obliterate or disregard any such notice appearing on the documents.

- 9.5 The Supplier warrants that the sale or use of the Works will not infringe or contribute to the infringement of any patents or any other intellectual property or proprietary rights owned by third parties. **THE SUPPLIER WILL RELEASE, DEFEND AND INDEMNIFY NEPTUNE AGAINST ALL CLAIMS, LOSSES, COSTS (INCLUDING LEGAL COSTS), EXPENSES AND DAMAGES OF EVERY KIND AND NATURE FOR, ARISING OUT OF OR IN CONNECTION WITH ANY SUCH ALLEGED INFRINGEMENT OF ANY PATENT OR ANY OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHT ARISING OUT OF OR IN CONNECTION WITH THE ORDER WHICH MAY BE BROUGHT AGAINST NEPTUNE, ITS RELATED ENTITIES OR CLIENTS/CUSTOMERS AND TO PAY ALL EXPENSES (INCLUDING LEGAL EXPENSES AND FEES) WHICH ARE INCURRED IN DEFENDING, AND ALL COSTS, LOSSES DAMAGES, PROFITS OR OTHER RECOVERIES OF EVERY KIND AND NATURE FOR, ARISING OUT OF OR IN CONNECTION WITH IN EVERY SUCH CLAIM.** If any of the Works or part of the Works is held to constitute an infringement, the Supplier will at its expense, obtain for Neptune a royalty free license to use the item, or replace or modify the item in a manner satisfactory to Neptune so as to avoid the infringement without any degradation in performance.

- 9.6 The Supplier shall use its reasonable endeavours to identify any infringement of patent or any other intellectual property or proprietary right in connection with or arising out of the Order. Should the Supplier become aware of such infringement or possible infringement then the Supplier shall inform Neptune immediately.

10 Warranty

- 10.1 The Supplier warrants that Works supplied are of merchantable quality (or, where the relevant jurisdiction for the purposes of clause 19.1 is Singapore, satisfactory quality), fit for the purpose intended, are of sound materials, workmanship, and design, free of defects in materials, workmanship and design, comply with all applicable laws and are capable of the standard of performance for which it is intended. The Supplier warrants that the Works are provided in strict accordance with the requirements specified in the Order and if Neptune supplied manufacturing drawings to the Supplier, the Supplier warrants that the Works are manufactured and supplied strictly in accordance with such drawings.



10.2 If the Works or any part of the Works are found to be defective in material or workmanship, unsuitable for the purpose intended or not in conformity of the requirements of the Order within 24 months from the date of delivery of the Works ("**Warranty Period**"), the Supplier will (at the option of Neptune) either replace or repair and rectify any of those Works or parts of Works supplied by Supplier at the Supplier's expense.

10.3 If the Supplier repairs or replaces or rectifies those Works during the Warranty Period then a new warranty will apply to those Works for a period of 12 months from the date that such repairs or replacements or rectification were completed to Neptune's satisfaction.

10.4 THE SUPPLIER WILL RELEASE, DEFEND AND INDEMNIFY THE NEPTUNE GROUP AGAINST ALL CLAIMS BY ANY THIRD PERSON FOR LOSS OR DAMAGE, DIRECT OR INDIRECT CAUSED BY WORKS SUPPLIED BY THE SUPPLIER WHICH ARE FOUND TO BE DEFECTIVE IN MATERIAL OR WORKMANSHIP, UNSUITABLE FOR THE PURPOSE INTENDED, FAIL TO COMPLY WITH ALL APPLICABLE LAWS OR INCAPABLE OF THE STANDARD OF PERFORMANCE INTENDED OR NON-COMPLIANT WITH THE ORDER.

11 Safety

11.1 If the Works include a service which is being undertaken on property occupied by Neptune or its clients ("**the Property**") the Supplier will be responsible for the safety of all persons on the Property engaged in the work and will ensure that such persons will comply with all Neptune safety regulations and procedures and with all applicable safety legislation.

11.2 The Supplier will provide full information on the use for which all Works supplied are designed and tested and of any conditions necessary to ensure such materials will be safe and without risk to health when handled, stored, transported and used. This information will be provided by the Supplier in writing, marked with the Order number and the relevant item number.

11.3 The Supplier will perform all activities required under the Order and deliver the Works in compliance with all applicable laws, rules and regulations.

12 Force Majeure

12.1 Neither party will be liable to the other for any failure or delay in performing any obligation under an Order where such failure or delay is due to a force majeure occurrence. For the purposes of the Order only the following occurrences shall constitute force majeure occurrences: riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power; ionizing radiations or contamination by radio activity from any nuclear fuel or radio-active, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; pressure waves caused by devices travelling at sonic or super sonic speeds; earthquake, fire, flood, explosion or and other natural physical disaster, but excluding weather conditions regardless of severity; national or regional level strikes by labour not employed by the affected party, maritime or aviation disasters.

12.2 If the Supplier fails to fulfill an Order due to a force majeure occurrence beyond its reasonable control, Neptune may obtain substitute Works from elsewhere for this period, reducing the amount of items ordered under such Order proportionately. If the Supplier is unable to continue fulfilling the Order within 15 days from specified delivery date, Neptune will have the right to terminate the Order without further obligation to the Supplier.

13 Suspension

13.1 Neptune may suspend all or part of the supply of the Works at any time after acceptance of the Order by the Supplier for any period of time by notice in writing to the Supplier.

13.2 The Supplier must comply with the notice and recommence supply when notified by Neptune.

13.3 The Supplier will not be entitled to any additional payment in respect of the suspension.

13.4 Unless the suspension is as a result of a default on the part of the Supplier, the delivery date specified in the Order will be extended by a duration that is fair and reasonable.

13.5 During any period of suspension the Supplier must properly protect and secure all materials, equipment and other items used for the performance of the Order.

14 Cancellation

14.1 Neptune, at its option, may cancel the Order or any part of the Order at any time.

14.2 If Neptune cancels an Order in accordance with clause 14.1 above, Neptune's sole liability will be to pay for materials manufactured and supplied in accordance with the Order as at the date of cancellation and for costs of custom materials and other items ordered for which the Supplier is legally bound to pay and cannot cancel or mitigate with use of reasonable efforts. Upon such payment, title to and property in all those materials and other items will pass to Neptune.

15 Termination

15.1 Without prejudice to the term of clause 14.1, in the event of any default of any of the conditions of the Order or these Terms and Conditions by the Supplier, Neptune may by written notice of default to the Supplier terminate the Order or any part of the Order.

15.2 In the event Neptune terminates an Order in whole or in part because of any default by the Supplier, Neptune may procure, upon such terms and in such manner as Neptune may deem appropriate, Works similar to those terminated and the Supplier will be liable to Neptune for any excess costs of such similar Works.

16 Indemnity

16.1 The Supplier will release, defend and indemnify the Neptune Group together with Neptune's Contractors in respect of any loss, expense, damage or liability arising out of any claim or cause of action of any of the following kinds (which is directly or indirectly related to the Order):

16.1.1 Personal injury, sickness or death of any members of the Supplier Group;



- 16.1.2 Loss or damage to the property of any members of the Supplier Group;
- 16.1.3 Indirect, consequential or economic losses suffered by any members of the Supplier Group (including, but not limited to loss of profit, loss of production or business interruption); and
- 16.1.4 Pollution emanating from property of any members of the Supplier Group and all other sources related to the Order

ALL IRRESPECTIVE OF THE NEGLIGENCE, OMISSION OR BREACH OF DUTY (WHETHER STATUTORY OR OTHERWISE) OF THE NEPTUNE GROUP OR NEPTUNE'S CONTRACTORS AND IRRESPECTIVE OF ANY CLAIM THAT THE SUPPLIER GROUP HAS IN TORT, UNDER CONTRACT OR AT LAW.

16.2 Subject to the provisions of clauses 4, 5, 6, 8 and 10 and without prejudice to the Supplier's obligations under the Order and Terms and Conditions, Neptune will release, defend and indemnify the Supplier Group in respect of any loss, expense, damage or liability arising out of any claim or cause of action of any of the following kinds (which is directly or indirectly related to the Order):

- 16.2.1 Personal injury, sickness or death of any members of the Neptune Group;
- 16.2.2 Loss or damage to the property of any members of the Neptune Group;
- 16.2.3 Indirect, consequential or economic losses suffered by any members of the Neptune Group (including, but not limited to loss of profit, loss of production or business interruption);
- 16.2.4 Pollution emanating from property of any members of the Neptune Group,

ALL IRRESPECTIVE OF THE NEGLIGENCE, OMISSION OR BREACH OF DUTY (WHETHER STATUTORY OR OTHERWISE) OF THE SUPPLIER GROUP AND IRRESPECTIVE OF ANY CLAIM THAT THE NEPTUNE GROUP HAS IN TORT, UNDER CONTRACT OR AT LAW.

17 Waiver and Amendment

- 17.1 Neither a waiver of any provision of the Order nor consent to any departure from the Order will be effective unless given in writing by Neptune.
- 17.2 Except as provided by law or equity or elsewhere in the Order, none of the provisions of the Order will be varied or amended without the prior written consent of the parties.

18 Assignment and Sub-Contracting

- 18.1 The Supplier will not assign the Order or any of its rights or obligations in these Terms and Conditions without the previous consent in writing of Neptune.
- 18.2 No part of the Order is to be sub-contracted without prior written agreement of Neptune. The Supplier will be required to seek such agreement in writing with full particulars of each item and the proposed sub-contractor. Permitted sub-contracting will not in any way relieve the Supplier from its obligations under the Order or these Terms and Conditions.

19 Applicable Law and dispute resolution

19.1 The Order and the rights and obligations of the parties will be construed in accordance with and be governed by the laws applicable in the jurisdiction in which the relevant Neptune entity named in the Order is incorporated except for Neptune's Scottish entities where the applicable law will be English law. Each of the parties agree that any legal action or proceedings with respect to its obligations pursuant to the Order or these Terms and Conditions will be brought in the jurisdiction in which the relevant Neptune entity named in the Order is incorporated and each of the parties submits to such jurisdiction.

19.2 Where the jurisdiction determined pursuant to clause 19.1 above is:

19.2.1 the United Kingdom then:

19.2.1.1 Any person (other than Neptune and the Supplier) who is given any rights or benefits under clauses 9, 10 or 16 (a "Third Party") will be entitled to enforce those rights or benefits against Neptune and the Supplier in accordance with the *Contracts (Rights of Third Parties) Act 1999*.

19.2.1.2 Except as provided in clause 19.2.1.1 above, the operation of the *Contracts (Rights of Third Parties) Act 1999* is expressly excluded.

19.2.1.3 Neptune and the Supplier may amend vary or terminate these Terms and Conditions in such a way as may affect any rights or benefits of any Third Party which are directly enforceable against the parties under the *Contracts (Rights of Third Parties) Act 1999* without the consent of any such Third Party.

19.2.1.4 Any Third Party entitled pursuant to the *Contracts (Rights of Third Parties) Act 1999* to enforce any rights or benefits conferred on it by these Terms and Conditions may not veto any amendment, variation or termination of these Terms and Conditions which is proposed by Neptune and the Supplier and which may affect the rights or benefits of any such Third Party.

19.2.1.5 Any dispute arising from the Order or these Terms and Conditions will be dealt with in the first instance by senior levels of management within Neptune and the Supplier. In the event that no solution is reached, either party is entitled to take the matter to litigation in England pursuant to English laws and in English Courts.

19.2.2 the United States of America then:

19.2.2.1 Any dispute arising from the Order or these Terms and Conditions will be dealt with in the first instance by senior levels of management within Neptune and the Supplier. In the event no solution is reached, either party is entitled to take the matter to mediation. In the event mediation is not successful, either party is entitled to take the matter to litigation in United States pursuant to United States laws and in the United States courts; or

19.2.3 Singapore then:



19.2.3.1 Any person (other than Neptune and the Supplier) who is given any rights or benefits under clauses 9, 10 or 16 (a "Third Party") will be entitled to enforce those rights or benefits against Neptune and the Supplier in accordance with the *Contracts (Rights of Third Parties) Act, Cap. 53B*.

19.2.3.2 Except as provided in clause 19.2.3.1 above, the operation of the *Contracts (Rights of Third Parties) Act, Cap. 53B* is expressly excluded.

19.2.3.3 Neptune and the Supplier may amend vary or terminate these Terms and Conditions in such a way as may affect any rights or benefits of any Third Party which are directly enforceable against the parties under the *Contracts (Rights of Third Parties) Act, Cap. 53B* without the consent of any such Third Party.

19.2.3.4 Any Third Party entitled pursuant to the *Contracts (Rights of Third Parties) Act, Cap. 53B* to enforce any rights or benefits conferred on it by these Terms and Conditions may not veto any amendment, variation or termination of these Terms and Conditions which is proposed by Neptune and the Supplier and which may affect the rights or benefits of any such Third Party.

19.2.3.5 Any dispute arising from the Order or these Terms and Conditions will be dealt with in the first instant by senior levels of management within Neptune and the Supplier. In the event that no solution is reached, either party is entitled to take the matter to litigation in Singapore pursuant to Singapore laws and the parties agree to submit to the non-exclusive jurisdiction of the Singapore courts.

19.2.4 Australia then:

19.2.4.1 Any dispute arising from the Order or these Terms and Conditions will be dealt with in the first instance by senior management of Neptune and the Supplier. In the event no solution is reached, either party is entitled to take the matter to litigation in Australia pursuant to Australian law and the parties agree to submit to the non-exclusive jurisdiction of the Australian courts.

20 Service of Notice

20.1 Unless otherwise agreed to by the parties, any notice (and other documents) required or permitted to be given or delivered under a Order will be delivered and addressed to the party at the address of the relevant party as set out in the Order. Notice will be deemed to have been received by any party, and will be effective:

20.1.1 On the day given (during normal business hours), if personally delivered or if sent by confirmed facsimile or electronic mail transmission (including any attached scanned documents), receipt verified, to a facsimile number or electronic mail address provided by the receiving party for the purpose of receiving such notices; or

20.1.2 On the third day after which such notice is deposited, if mailed by certified or prepaid post.

21 Hazardous Materials

21.1 The Supplier will ensure that the Works will comply with the requirements of all applicable law and, to the extent that they contain toxic, corrosive or hazardous materials, the Supplier will ensure that a notice to that effect accompanies each consignment, together with appropriate care and handling instructions.

21.2 Works supplied under the Order, which are contaminated beyond use, at the time of delivery, shall be regenerated or disposed of by the Supplier. The title and risk of the contaminated Works will remain with the Supplier, who will bear all expenses for the said processes.

22 Free Issue Materials

22.1 Where Neptune provides free issue materials for incorporation in the Order such materials shall remain the property of Neptune but shall become the risk and responsibility of the Supplier and shall so remain until delivery to or acceptance of the Order by Neptune in accordance with the provisions of the Order whichever shall be the later.

22.2 The Supplier shall use such materials economically and any surplus shall be accounted for to Neptune and disposed of in accordance with Neptune's instructions. Waste, loss of or damage to such materials arising from bad workmanship or failure of the Supplier to maintain such materials in good order and condition shall be made good at Supplier's expense and replacements of such materials to be equivalent quality and specification and subject to Neptune's approval.

22.3 All such free issue materials provided by Neptune shall be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier otherwise notifies the Neptune within 48 hours.