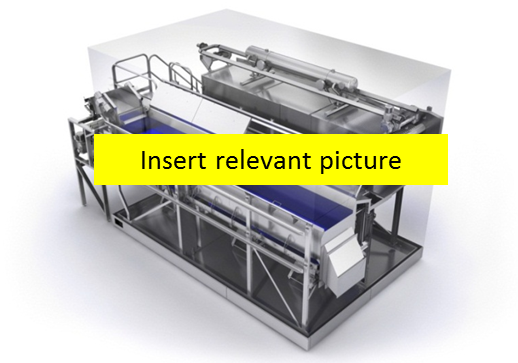
# SALES Proposal / Order confirmation

For: Add project description (i.e. **FLoFREEZE® FFM 4** freezing up to 4.000 kg/h of mushrooms and other vegetables)

|  |  |
| --- | --- |
|  |  |
|
|



Project ID: {first\_name} (Salesforce Opportunity ID)

Layout ID: AUXXXXXXL01

Between: **Company Name (ABN XX XXX XXX XXX)**  Address 1   
 Address 2   
 Australia

**hereinafter referred to as** “Buyer”



And: **John Bean Technologies Australia Limited (ABN 88 127 499 085)**

Suite 2.03, Level 2, 126 Church Street

Parramatta NSW 2150

Australia **hereinafter referred to as** “Seller”



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# Product specification

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Product | Product 1 | | Product 2 (optional) | Product 3 (optional) |
| Product(s): | |  |  |  |
| General: | |  |  |  |
| Treatment: | |  |  |  |
| Water cont: | |  |  |  |
| Dimensions: | |  |  |  |
| Weight: | |  |  |  |
| Temperatures: | |  |  |  |
| Equipment capacity (in/out feed): | |  |  |  |
| Line capacity: | |  |  |  |
| Belt loading density: | |  |  |  |
| Belt Loading pattern: | |  |  |  |
|  | |  |  |  |
|  | |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Technical information |  |  |  |  |
| Evap temp: |  |  |  |  |
| Refrig media: |  |  |  |  |
| Refrig req.: |  |  |  |  |
| Add other data needed |  |  |  |  |

In the absence of verified data, the selection of the equipment in this proposal/order confirmation is based on estimated product data. Process times, belt loadings, thermal properties, etc., may be based on previous experience with similar products. Therefore, the proposal/order confirmation is subject to change after confirmation tests have been carried out. If the proposal/order confirmation is accepted without such confirmation tests, it shall be understood and agreed that the performance of the equipment may vary from the indicative specifications.

The Seller is not liable for any deviations in capacity due to unpredictable behaviour from natural products.

# Equipment specification

**EQUIPMENT 1**

This Proposal/Order Confirmation is for the supply, installation and commissioning of: JBT/Frigoscandia **FLoFREEZE® FFM 4**, acc. to enclosed manual sheet

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Included | |  | |  | | |  | | | Price | |
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|  |  | |  | | |  | | |  | | |
| Total price | | |  | |  | | |  | | | AUD |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Optional |  |  |  | |  |
|  | | | | AUD | |
|  | | | | AUD | |

(All Prices Excl GST)

**Country of Origin:** XX

|  |
| --- |
| Excluded  The following items and services are not included in the proposal/order confirmation and their provision is undertaken by the Buyer |
| Equipment specific exclusions |
| Add information needed |
| General exclusions |
| GST, Local permit, fees, certifications, taxes, customs duties etc. |
| All building work, suitable foundations, penetrations, drains, etc. |
| Provision and connection of all services such as refrigeration, electricity, gas, water, steam, compressed air, etc., as well as the supply of the necessary isolation valves or isolator |
| Temporary supplies of electricity, water, compressed air, etc., during construction |
| Cranage and lifting equipment |
| Access platforms and walkways unless specifically included |
| Special safety requirements |
| Necessary protections around pressure vessels and similar items |
| All other parts not mentioned in proposal/order confirmation |
| Goods unload and placement in the installation area and removal of packing |
| Add/remove relevant information |

# TECHNICAL SPECIFICATION

Insert from Tech docs [C:\DataPersonal\TechDoc\HTML\index.html](file:///C:\DataPersonal\TechDoc\HTML\index.html)

# CONCEPT LAYOUT

Insert from Tech docs [C:\DataPersonal\TechDoc\HTML\index.html](file:///C:\DataPersonal\TechDoc\HTML\index.html)

# EXCHANGE RATES

These prices are based on current exchange rates. If the exchange rates vary by more than +/- 2% between the date of this proposal and receipt of a subsequent order, we reserve the right to alter the prices.

The prices indicated exclude GST or any other taxes, duties, government charges or levies. All payments will become due as stipulated below.

# TERMS OF PAYMENT

The standard terms of payment are:

30% : Deposit with order

60% : Progress claim PRIOR TO DESPATCH ex-works Sweden

10% : On completion of test & sign off, but no later than 30 days after notification

*the installation is complete.*

*The equipment remains under ownership of John Bean Technologies Australia Limited until full payment is made.*

**Note: All payments are due on presentation of invoice.**

1. Payments in **AUD** shall be remitted by the Purchaser to the AUD bank account of the Contractor at:

Bank name: JP Morgan Chase Bank, Sydney Branch

Account Name: John Bean Technologies Australia Limited

BSB No: 212-200

Account No: 016051937

SWIFT No: CHASAU2X

1. Payments in **USD** shall be remitted by the Purchaser to the USD bank account of the Contractor at:

Bank name: JP Morgan Chase Bank, N.A.

Account Name: John Bean Technologies Australia Limited

Account No: 887293462

Bank Address: 4 New York Plaza, New York 10004

USA Swift code: CHASUS33

ABA No: 021000021

1. Payments in **EURO** shall be remitted by the Purchaser to the Euro bank account of the Contractor at:

Beneficiary Bank Name: JP Morgan Chase Bank, Sydney Branch

Beneficiary A/C Name: John Bean Technologies Australia Limited

Beneficiary A/C No: 0016052307

Beneficiary Bank SWIFT: CHASAU2X

Correspondent Bank Name: JP Morgan Chase Bank, N.A. Frankfurt

Correspondent Bank SWIFT: CHASDEFX

Correspondent Bank No: 6001600136

# delivery

Based on the present commitments, and subject to intermediate sales, the equipment offered can be ready for despatch ex-works Sweden XX weeks from receipt of signed order confirmation and down payment.

Delivery Address: Specify delivery address

If the delivery of the equipment is delayed for reasons caused by the Buyer, the Seller reserves the right to charge storage costs to the Buyer.

# INSTALLATION & COMMISSIONING

The installation elements of the price in this Proposal/Order Confirmation are based on estimates made from previous experience.

These estimates assume full access to the site of installation and that temporary services are available 10 hours per day, 6 days per week.

Adverse site conditions might cause safety-caused interruption to the installation programme. Under such circumstances, it shall be at the discretion of Seller’s Site Supervisor to stop and suspend work to be carried out.

If circumstances out of Seller's control demand special equipment for installation and/or increased time of installation, Seller reserve the right to claim compensation for such extra costs of installation.

# terms & conditions

The general conditions of sale are **Australia / New Zealand Standard No. 4910-2002**, “General conditions of contract for the supply of equipment with installation”, **with Deletions/Amendments and Additions per Annex III and Annex IV**, attached.

**TECHNICAL DOCUMENTATION**

The Supplier is obliged to provide to the Purchaser one copy of all technical documentation, which is necessary for installation and operation of the delivered Equipment, in English.

**TECHNICAL ASSISTANCE**

In accordance with this Contract, the Supplier is obliged to provide skilled helpers to assemble, and Site Supervisor to supervise the installation of, the delivered Equipment. Exact date for the arrival of site supervisor and helpers are to be agreed between the parties with approximately four (4) weeks' written notice to be given by Purchaser to Supplier of the proposed arrival date(s).

The Supplier is also obliged to do the supervision of the start-up of the Equipment as well as the trial operation and training of the nominated personnel of the Purchaser related to the operation and maintenance of the Equipment. For this purpose the Supplier will send one (1) supervisor for start-up and training of the Equipment to stay for a maximum period of 3 working days. The Supplier will also provide skilled helpers as required.

The Purchaser shall provide conditions as per Annex IV Conditions of Sale Erection & Installation – SEFTE05. The Purchaser is obliged to have sufficient product available for trial operation and to supply the Equipment with electric power, water, refrigeration and other necessary utilities as more particularly set out in List of Responsibilities in Annex II. Local transportation between airport-hotel, costs for board and lodging to a good standard close to the building site are the responsibility of the Purchaser as more particularly set out in Annex II.

Should the installation, start-up and training work be extended for reasons arising out of the conduct or omission of the Purchaser, the Purchaser shall pay the Supplier an additional amount per schedule of JBT FoodTech service rates.

**MECHANICAL WARRANTY**

John Bean Technologies Australia warrants that the goods delivered under this contract will be free from defects in material and workmanship for a period of 18 months from shipment or 12 months from installation, whichever is earlier. The sole remedy for breach of this warranty is the repair or replacement (at the discretion of John Bean Technologies Australia) of the defective good, and John Bean Technologies will not be liable under this warranty for labour to remove or reinstall the good, for transportation or freight on the good or any replacement good, for heavy lifting operations, for down time or for any other costs. Goods which John Bean Technologies Australia determines to have been subjected to abuse or other improper use will not be entitled to the benefits of any warranty by John Bean Technologies Australia.

*THERE ARE NO OTHER WARRANTIES, STATUTORY, AT LAW, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH EXTEND BEYOND THE FACE OF THIS AGREEMENT.*

Misuse. No warranty shall apply to the equipment, parts or material(s) supplied that are subjected to improper storage, misuse, neglect or accident, modified without John Bean Technologies Australia prior written approval or not stored , installed, operated, maintained or used in accordance with John Bean Technologies Australia manuals, guidelines, recommendations, instructions and normal industry practice.

Buyer’s Use of Components or Service Not Supplied by John Bean Technologies Australia. No warranty shall apply if the buyer uses, incorporates or attaches any component(s), part(s) or material(s) in, on, with or to the Equipment supplied, and same has not been approved in writing by John Bean Technologies Australia prior to such use, incorporation or attachment. No warranty shall apply if, in respect of any services which does or may result in any change or addition:

(i) to the Equipment supplied, or

(ii) to the operation or use of the Equipment supplied, or

(iii) to the thing to which the Equipment supplied is incorporated or attached (or is used/operated in conjunction with), the service is not supplied by John Bean Technologies Australia or a service provider approved by John Bean Technologies Australia.”

**NON DISCLOSURE OF INFORMATION CONTAINED IN THIS TENDER**

The consulting Engineer, Architect, Project Manager, or Client shall keep secret and confidential and shall not disclose to any third party without the prior written consent of the Supplier and information, data, specifications, drawings, reports, accounts or other documents and things supplied or made available by the Supplier to the Consulting Engineer, Architect, Project Manager, or Client or brought into existence by the Supplier for the purpose of performance of the services and/or work set out herein and the Consulting Engineer, Architect, Project Manager, or Client shall take or cause to be taken such reasonable precautions as may be necessary to maintain secrecy and confidentiality and prevent disclosure, including obtaining confidentiality agreements from its employees, agents and sub-contractors.

**RISK OF LOSS AND TRANSFER OF TITLE**

Unless otherwise specified in JBT’s sales proposal, the Goods shall be delivered CIP Buyer’s facility in accordance with INCOTERMS 2010. JBT and Buyer agree that the passage of risk shall occur when the Goods are delivered to Buyer or the first transportation carrier, whichever first occurs. JBT shall not be responsible for the arrangement of customs clearance or the payment of import fees and customs clearance duties for Goods sold for delivery to a foreign country where JBT is not the importer of record. Title in the Goods shall pass to Buyer when the Goods are delivered to Buyer or the first transportation carrier, whichever first occurs. [Notwithstanding the foregoing, to secure Buyer’s obligation to pay the purchase price, plus accrued interest, if any, and to fully perform all of the terms and conditions of this Agreement, Buyer hereby grants JBT a purchase money security interest in all Goods sold in connection with this Agreement. Buyer agrees to execute all financing statements or other documents and take actions considered necessary or desirable by JBT to perfect its security interest. JBT may enter Buyer’s premises to inspect the Goods and, if Buyer defaults under this Agreement, to repossess and remove the Goods.] Buyer will not move the Goods from the premises in which they were first installed until the Price has been paid in full. Buyer and JBT agree that the Goods are personal property, and they shall retain that character no matter if or how affixed or attached to any structure.

**COMING INTO FORCE**

This Contract comes into force as of the date of the last signature below. Notwithstanding the foregoing, Supplier shall not be obligated to commence work hereunder until a clear Letter of Credit or Bank guarantee or other agreed security is in the Supplier’s hands or down payment is irrevocably received in the Supplier’s bank account. Supplier shall not be responsible for any project or Equipment delays that are caused by Purchaser. The following documents are an integral part of this Contract and in case of any inconsistency in their provisions shall have the following order of priority:

The terms of the Articles set out herein

1. Annex I: Specifications of the Equipment.
2. Annex II: Contract Responsibilities
3. Annex III: Deletions/Amendments and Additions to Australia / NZ Standard AS/NZS

4910-2002 Part C

1. Annex IV: Conditions of Sale, Erection & Installation – SEFTE05 (March 30, 2004)

**ENTIRE AGREEMENT**

This Contract contains the entire agreement between the parties with respect to its subject matter and supersedes all previous agreements and understandings between the parties in relation to the terms of this Contract and may not be modified except by a single written instrument signed by the duly authorized representatives of the parties. This Contract has been made in two copies, one for the Supplier and one for Purchaser.

# Approval & Acceptance

This Order Confirmation is subject to written acceptance and confirmation by John Bean Technologies Australia Limited.

John Bean Technologies Australia Limited [Company name]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorised Signatory Authorised Signatory

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Please print name Please print name

Date of issue: DD-MM-YYYY   
Validity: 21 days from date of issue

# APPendiX

**Annex III: Deletions/Amendments and Additions to Australia Standard AS/NZ 4910-2002: Part C**

The following changes are made to the Australian Standard General Conditions of Contract for the Supply of Equipment with Installation AS 4910-2002.

**C.1. Part C to Prevail**

(a) In case of any inconsistency, conflict or discrepancy between any provision of this Part C and (i) any provision of AS 4910-2002, (ii) any other Annexure to AS 4910-2002, (iii) any other attachment or annex to the Contract, (iv) any Purchaser supplied documents, and (v) any purchase order, or any modification(s) thereto and incorporated into the Contract, the provisions of this Part C shall prevail.

(b) Any reference to a clause or subclause in this Part C is a reference to the corresponding clause or subclause in the Australian Standard General Conditions of Contract for the Supply of Equipment with Installation AS 4910-2002.

**C.2. Limitation of Liability**

Notwithstanding any other provision of the Contract to the contrary, neither party shall be liable to the other in contract or in tort, directly or under any indemnity, for loss profits or for any indirect, special, or consequential damages arising out of or related to the Contract, including but not limited to loss or delay of production, reservoir loss/damage, environmental pollution damage, howsoever same may be caused.

**C.3. Mutual Indemnification**

*C.3.1.*

Clauses 12 (Protection of people and property), 13 (Urgent protection), 14 (Care of the work and reinstatement of damage) and 15 (Damage to persons and property other than WUC), and subclause 9.5 (Contractor’s responsibility) are deleted, and replaced with the following provisions.

*C.3.2.*

Personal injury The Contractor shall release, defend, hold harmless and indemnify the Purchaser, its affiliates and its other contractors against personal injury suits by employees of the Contractor and its subcontractors arising out of the contract or the Works. Likewise, the Purchaser shall release, defend, hold harmless and indemnify the Contractor and its subcontractors against personal injury suits by employees of the Purchaser, its affiliates and its other contractors arising out of the contract or the Works. The Contractor will release, defend, indemnify and hold harmless the Purchaser, its affiliates and its other contractors against personal injury/death claims by other persons, but only to the extent the injury/death was caused by the Contractor or its subcontractors. The Purchaser shall similarly release, defend, indemnify and hold harmless the Contractor, its affiliates and its subcontractors, but only to the extent the injury/death was caused by the Purchaser or its other contractors.

*C.3.3.*

Loss or Damage to Property The Contractor will release, defend, indemnify and hold harmless the Purchaser, its affiliates and its other contractors for loss or damage to their property, but only to the extent caused by the Contractor or its subcontractors. The Purchaser in turn shall release, defend, indemnify and hold harmless the Contractor, its affiliates and its subcontractors for loss or damage to their property but only to the extent of the Purchaser’s fault. The Contractor will indemnify the Purchaser, its affiliates and its other contractors for loss or damage to property of third parties, but only to the extent the loss or damage was caused by the Contractor or its subcontractors. The Purchaser shall similarly indemnify the Contractor, its affiliates and its subcontractors, but only to the extent the loss or damage was caused by the Purchaser or its other contractors.

**C.4. Warranty and Liability for Defects**

*C.4.1.*

Clause 35 (Defects liability) and sub clauses 10.1 (Warranties) and 29.3 (Defective work) are deleted, and replaced with the following provisions.

*C.4.2.*

(a) The “Warranty Period” shall mean 18 months from date of shipment or 12 months from the date of practical completion, whichever occurs first. For the duration of the Warranty Period, Contractor warrants that

(i) the Works will have been performed in a workmanlike manner;

(ii) the Equipment will

(1) be free from defects in material and workmanship; and

(2) comply with the express warranties in this Contract.

The Contractor’s liability under this Warranty does not cover normal wear, tear and deterioration of the Equipment or Works.

(b) This Warranty shall not apply to Equipment or work subjected to improper storage, misuse, neglect or accident, modified without Contractor’s written approval or not stored, installed, operated, maintained or used in accordance with Contractor’s manuals and instructions and normal industry practice. Purchaser is required to keep a documented maintenance record.

(c) Contractor shall assign to Purchaser, to the extent possible, any warranties received by Contractor from the suppliers or manufacturers for goods that Contractor, its subsidiaries or affiliates do not manufacture.

(d) **THIS WARRANTY AND THE EXPRESS WARRANTIES FOUND ELSEWHERE IN THIS CONTRACT ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

*C.4.3.*

Contractor’s liability under the Contract is, and Purchaser’s exclusive remedy shall be, limited to:

(i) the repair or, at Contractor’s option, replacement of defective parts, but not the labour costs to remove the parts or install replacements unless particular skills are required. Purchaser will give Contractor access to and cooperate in repair of the Equipment and, work request; or

(ii) if, in the opinion of the Contractor only, re-work, repair or replacement will not remedy a claimed defect or failure of the Equipment to comply with any warranties, Purchaser’s remedy is limited to repayment of any amounts paid on the contract sum, cancellation of the Contract and return of the Equipment. If the Equipment, or other equipment serviced under this contract, has been used, Contractor may deduct a reasonable depreciation charge from the repayment of the contract sum;

(iii) the intellectual property right provisions at C.9 below.

The above limitations shall come into effect to the benefit of Contractor’s suppliers and subcontractors.

**C.5. General Limitation of Liability**

*C.5.1.*

Clause 43 shall be deleted and replaced with the following provision.

C.5.2.

Notwithstanding any other provision in the Contract to the contrary, the Contractor’s aggregate liability under the Contract shall be limited to and shall not exceed the contract sum or USD 1,000,000 whichever is lower. If the contract sum is not a lump sum, for the purposes of this provision only, ‘contract sum’ shall be the best estimate of the total amount likely to be payable to the Contractor under accepted rates in the normal course of events in order to complete the Works and deliver the Equipment in accordance with the Contract. ***This provision will have no application in relation to a repayment of moneys paid by the Contractor to the Purchaser under the provisions of Clause C.4.3(ii)***

**C.6. Insurance**

*C.6.1.*

Alternative I and all of the paragraphs under “Alternative I: Contractor to insure” in subclause 16.2 are deleted.

*C.6.2.*

The Purchaser shall indemnify the Contractor against any loss or damage the Contractor may suffer arising out of any breach by the Purchaser or any insurance agreement, or any misconduct or breach of duty in relation to any insurance cover taken out by the Contractor including as a joint insured, in respect of the Contract, the work or the Equipment.

**C.7. Risk of Loss and Transfer of Title**

*C.7.1.*

The risk of loss of or damage to the Equipment shall pass to the Purchaser in accordance with the INCOTERMS in force at the date of formation of the Contract. Any risk of loss or damage to the Works not covered by the preceding sentence is for the Purchaser, except when such loss or damage results from the Contractor’s negligence.

*C.7.2.*

Any loss or damage to the Equipment and the Works after the risk has passed to the Purchaser shall be for the Purchaser, unless such loss or damage results from the Contractor’s negligence.

C.7.4.

The Purchaser shall at the request of the Contractor assist him in taking any measures necessary to protect the Contractor’s title to the Equipment.

**C.8. Force Majeure**

Neither Party shall not be in breach of this Contract if it does not perform, or is delayed in performing, any of its obligations under this Contract for any Act of God or other reason beyond its control including but not limited to earthquakes, fires, severe weather, war, terrorist activity, sabotage, riot, insurrection, civil disobedience or disturbance, military embargoes, import or export limitations, or other action by or law or regulation of any government, quasi-governmental or supranational body or agency, interruptions or failures of transportation, utilities, computers or communications, labour troubles (including strikes and lockouts), delaying in obtaining or inability to obtain labour, materials, supplies or services, accidents, or other causes of like or different character; or because of any travel or security restrictions or advisories imposed voluntarily or involuntarily by the Contractor, its agents, subcontractors or suppliers or by any government or any quasi-governmental or supranational body or agency. *If a party is unable to perform its obligation under the contract for the reason of a Force Majeure for a period of 12 months the other party is able to terminate the contract.*

**C.9. Intellectual Property**

*C.9.1.*

Clause 10.1 (Warranties) is deleted and replaced with the following provision.

*C. 9.2.*

If notified promptly in writing by the Purchaser and given complete authority, information and assistance, the Contractor shall defend, or may settle, at its option, any suit or proceeding brought against the Purchaser based upon a claim that the use or sale of any Equipment in accordance with this Contract constitutes infringement of any intellectual property right. The Contractor shall pay all damages and costs awarded in such suit or proceeding provided the Purchaser does not, by any act or omission, except as may be required by law, or compelled during or as a result of legal proceedings (including any admission or acknowledgment), materially impair or compromise the defence of such suit or proceeding. If in such suit or proceeding, the Equipment or any portion thereof is held to constitute infringement and its use is enjoined, Contractor shall, at its own expense and option, either procure the right for Purchaser’s continued use or sale thereof, replace or modify the affected portion so that it becomes non-infringing, or accept return of such portion and refund a pro-rata portion of any amount paid by Purchaser for such portion. This states the entire liability of Contractor with respect to any infringement by the Works or Equipment provided under the Contract.

*C. 9.3.*

The foregoing paragraph shall not apply to any claim of infringement arising from any item of Equipment or portion thereof specified by Purchaser, or Purchaser’s modification of the Equipment, or Purchaser’s use thereof with other software or equipment not supplied by Contractor. As to any such use, Contractor assumes no liability whatsoever for intellectual property right infringement and Purchaser will hold Contractor harmless against any infringement claims arising there-from.

*C.9.4.*

The Purchaser warrants that, unless otherwise provided in the Contract, design, materials, documents and methods of working, each specified in the Contract or provided or directed by the Purchaser or the Superintendent shall not infringe any intellectual property right.

*C.9.5.*

The word “transferable” in line two of the second paragraph of clause 10.2 (Ownership and licence) is deleted. Any licence granted to the Purchaser pursuant to clause 10.2 (Ownership and licence) is not transferable.

**C.10. Assignment**

*C.10.1.*

Neither party shall unreasonably withhold its approval to an assignment provided for in clause 9.1 (Assignment).

**C.11. Default**

*C.11.1.*

The Contractor may place a service charge on past due accounts.

*C.11.2.*

The Purchaser shall pay the Contractor the full Contract sum and any additional expenses incurred by Contractor when delivery is suspended pursuant to Purchaser’s actions, omissions, or written instructions. The Contractor may suspend performance or terminate this Contract if any payment due by Purchaser is not irrevocably received by Contractor by the due date.

*C.11.3.*

In subclause 39.3(d), the period in which the Contractor must show cause, to not be less than “7” clear days, the number “7” shall be deleted and replaced with the number “15”. The relevant notice period in point (d) of subclause 39.3 (Purchaser’s notice to show cause) shall not be less than fifteen clear days. *The period in which the Purchaser must show cause for breach will not be less than 15 clear days.*

*C.11.4.*

The second paragraph of clause 39.6 (Adjustment on completion of work taken out), concerning retention and sale of construction plant, is deleted in its entirety.

*C.11.5.*

The third paragraph of clause 28 (Materials, labour and construction plant) concerning the power of the Superintendent to give a direction in respect of construction plant, is deleted in its entirety. The Superintendent may give no such direction.

**C.12. Arbitration**

*C.12.1*

Subclause 42.3 (Arbitration) is deleted and replaced with the following provision.

*C.12.3.*

*Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration by an internationally recognised entity in Australia. The arbitration tribunal shall consist of three arbitrators. One member of the tribunal to be appointed by each party and the third (the President) appointed by agreement of the parties.*

**C.13. Miscellaneous Provisions**

*C.13.1.*

The final sentence of clause 27 (Cleaning up) concerning the rights in that paragraph being additional to other rights and remedies, is deleted.

*C.13.2.*

Subclause 29.5 (Timing) is deleted.

*C.13.3.*

Subclause 33.2 (Contractor’s suspension) is deleted.

*C.13.4.*

Notwithstanding any other provision in the Contract, no variation to the Contract may be made that decreases the scope of supply of the Equipment. If any direction is made to decrease or omit the supply of Equipment, the Purchaser shall nevertheless pay the Contractor all costs, fees and charges associated with production and supply of the Equipment together with any profit the Contractor would have made in respect of supply of the Equipment pursuant to the Contract.

*C13.5.*

The Purchaser shall hold the Contractor harmless from any and all costs or expenses the Contractor incurs due to errors or mistakes in any drawings or plans provided by or through the Purchaser.

*C.13.6.*

If repair parts, substitutions or additional equipment or services are purchased by Purchaser from Contractor, the terms and conditions in this Contract shall be applicable to that transaction, as if originally purchased within this Contract.

*C.13.7.*

This Contract constitutes the entire understanding between the Purchaser and Contractor, supersedes all previous agreements and understandings between the Purchaser and Contractor relating to its subject matter. Any promises, representations, warranties or guarantees not contained herein, shall have no force and effect unless in writing signed by the Purchaser and Contractor and attached to this Contract. Should any provision in this Contract be contrary to, prohibited by, be held unenforceable, be deemed invalid or in conflict with the applicable laws or regulations of any jurisdiction, such provision shall be deemed inapplicable and omitted to the extent contrary, prohibited, unenforceable, invalid or in conflict, but the validity of the remaining parts or provisions shall not be affected and shall be given effect so far as possible.

*C.13.8*

For all the work, including the start-up of the Equipment and the training of Purchaser’s personnel,. the Contractor shall designate a properly skilled Contractor Site Representative.

*C.13.9*

The Purchaser shall ensure that the Contractor Site Representative is able to commence his duties immediately on his arrival. The Purchaser shall, at the site, provide all necessary connections (refrigeration, water, gas, electricity, hydraulic etc.) for the work to be carried out.

*C.13.10*

The Contractor and Purchaser acknowledge and agree that the Contractor and the Contractor’s Contractor Site Representative(s) has not, and will at no time have, any control over and/or power to direct any employee, agent, representative or officer of the Purchaser for any purpose whatsoever. The Purchaser shall release, defend, indemnify and hold harmless the Contractor, its affiliates and its subcontractors for any damage or injury caused by any person engaged by or under a contract of employment with the Contractor, its affiliates and/or subcontractors if such person may be deemed or held to be acting as an employee or under the direction or control of both (i) the Contractor and/or any of its affiliates and/or subcontractors, and (ii) the Purchaser.

*C.13.11*

All communications by the Contractor Site Representative will be made to the Purchaser in the English language, if not otherwise agreed elsewhere in the Contract.

*C.13.12*

The date on which the Contractor Site Representative shall arrive at site shall be as provided in the Contract. The Purchaser shall confirm exact date not later than three weeks in advance.

*C.13.13*

If the installation or erection or the arrangements for the start-up or training of Purchaser’s personnel is interrupted or delayed for causes for which the Contractor is not responsible, the Contractor is entitled to charge for waiting time. Should the interruption exceed one week, the Contractor shall be entitled to recall his personnel at Purchaser’s expense.

*C.13.14*

The Purchaser shall – on the Contractor’s request – and to the best of his ability, assist the Contractor in obtaining the necessary information concerning all relevant local laws and regulations.

*C.13.15*

The Purchaser shall inform the Contractor of all safety regulations which the Purchaser imposes on its employees and the Contractor shall secure the compliance of the Contractor Site Representative to such safety regulations. The Purchaser shall forthwith report such breaches of the safety regulations to the Contractor. The Contractor shall inform the Purchaser in full of any particular risks connected to the execution of the work may entail. The Contractor Site Representative shall have the right to interrupt, suspend and postpone any of his services or the work when the work according to his opinion is of unreasonable risk or danger.

*C.13.16*

Unless the Purchaser has informed the Contractor in writing to the contrary, the Contract sum shall be deemed to have been agreed upon on the assumption that the below conditions are fulfilled. Any departure from the conditions mentioned shall attract an extra charge.

1. The work will not be carried out in unhealthy or dangerous surroundings.
2. The Contractor Site Representative shall have access to telephone and telefax.

*C.13.17*

It expressly agreed that neither party shall be liable to the other in contract or in tort, directly or under any indemnity, for loss profits or for any indirect, special, or consequential damages, arising out of or related to the performance of the erection, installation or start-up of the Equipment or delays thereof, however same may be caused.

*C.13.18*

The Purchaser is not entitled to employ the Contractor Site Representative in work not covered by the Contract, unless the Contractor has agreed to this in advance. If the Contractor gives such permission, the Contractor accepts no liability for such work.

*C.13.19*

*Clause 5 (“Security”) of AS 4910-2002 is deleted.*

**Annex IV: Conditions of Sale Erection & Installation – SEFTE05 (March 30, 2004**)

1. These provisions shall apply when the Seller in the Contract shall provide erection and installation and for the start-up of the Equipment and if applicable, together with the training of Buyer’s personnel.
2. All necessary preparations of the site and connections (e.g. For refrigeration, water, gas, electric­ity, hydraulic etc.) are to be functioning properly so that the Seller may immediately commence work and efficiently make the necessary connections during the period of erec­tion and installation.
3. All services of the Seller will be communicated to the Buyer in the English language, unless otherwise agreed in the Contract.
4. The date on which the Seller shall arrive at site shall be as provided in the Contract. The Buyer shall confirm exact date not later than three weeks in advance.
5. While the Seller is on site the Buyer shall forthwith report to the Seller any breaches of applicable safety regulations or requirements. Prior to Seller’s arrival on site each party shall inform the other in full of any particular or unusual risk(s) connected to or entailed by the work, site or facilities and equipment thereon. The Seller shall have the right to interrupt, suspend and postpone any of his services when the work in the Seller’s opinion is of unreasonable risk or danger.
6. Unless the Buyer has informed the Seller in writing to the contrary, the price shall be deemed to have been agreed upon on the assumption that the below conditions are fulfilled. Any departure from the conditions mentioned below shall attract an extra charge.
   * 1. The works will not be carried out in unhealthy or dangerous surroundings. The place of installation shall be ready for the erection and installation of the Equipment. The working premises should be kept at a temperature of at least +15°C.
     2. The premises where the work is undertaken shall be equipped with adequate hygiene facilities.
     3. The Seller shall have access to telephone and telefax at the site.
7. It expressly agreed that neither party shall be liable to the other in contract or in tort, directly or under any indemnity, for loss profits or for any indirect, special, or consequential damages, arising out of or related to the performance of the erection, installation or start-up of the Equipment or delays thereof, including but not limited to loss or delay of production, loss of product, loss of revenue or goodwill, reservoir loss/damage, environmental pollution damage however same may be caused, and further that notwithstanding any other provision in this agreement to the contrary, the Seller’s aggregate liability under this agreement shall be limited to and shall not exceed the contract price.
8. In case of inconsistency between the applicable Orgalime provisions and these terms SEFTE05, these terms SEFTE05 shall take precedence.