General Conditions for Purchase of Goods and Services

1. Application

1.1. If there is any inconsistency between the conditions of the Contract any other document agreed in writing between HBG and the Supplier, the other document will prevail to the extent of any inconsistency with the Contract, unless HBG notifies the Supplier to the contrary.

1.2. Defined terms used in this Contract have the meanings set out in this clause or in the Purchase Order:

Claim means any claim, proceeding, action or demand, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Contract means the contract between HBG and the Supplier for the purchase of the Goods and/or Services on the terms set out in the Purchase Order and in these General Conditions.

GST has the meaning given in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

HBG means the party ordering services under the Purchase Order, which is one of: Hazell Bros Group Pty Ltd ABN 27 088 345 804; Hazell Bros Concrete Pty Ltd ABN 56 118 390 800; Hazell Bros Resources Pty Ltd ABN 16 150 374 280; Hazell Bros (QLD) Pty Ltd ABN 45 145 228 986.

Intellectual Property means any intellectual or industrial property whether protected by statute, at common law or in equity, including any patent, invention, copyright, or design right (whether or not registrable), in any design, specification, process, technique, software, know how, trade secret, technical information, financial information, business method and confidential information.

Purchase Order means the purchase order issued by HBG to the Supplier in respect of the Goods and/or Services to which these General Conditions relate.

Tax Invoice has the meaning given in the GST Act.

1.3. In the Contract, unless the context otherwise requires: where the Supplier includes more than one party, those parties are bound jointly and severally; words importing one gender include any other gender; words importing the singular include the plural and vice versa; reference to a person includes a body politic, a body corporate and a natural person; and headings are for guidance only and do not affect the interpretation of the clauses they refer to.

1.4. Each party retains the benefit of all provisions providing a benefit or right which may survive the discharge of the Contract.

2. Price

2.1. 45 days from the end of the month in which HBG received a valid Tax Invoice from the Supplier or in line with the payment terms noted on the purchase order (takes precedent) and subject to clause 2.2, HBG must pay the Supplier the price stipulated in the Purchase Order for the Goods and/or Services ("Price") based on the rates and quantities set out in the Purchase Order, provided that HBG is satisfied with the provision of the Goods and/or Services under the Contract.

2.2. All delivery notices, invoices, packages and any other documentation relating to the purchase of Goods and/or Services by HBG must include the relevant HBG Purchase Order Number, and where available any serial or asset numbers and/or any product or contractor names. Without limiting the above, invoices which do not quote a Purchase Order Number will not be accepted for payment by HBG.

2.3. Unless otherwise expressly provided in the Contract, the price for the Goods and/or Services is fixed and includes the cost of transport insurance (to be paid by the Supplier), all duties, taxes (except GST) and packing costs (if any) and any other costs and expenses of the Supplier associated with manufacture, delivery and/or supply, and offloading, of the Goods and/or performance of the Services at the delivery place stipulated in the Purchase Order.

2.4. Any increase in the cost of manufacture, delivery and/or supply of the Goods and/or Services between the date of the Purchase Order and the date of delivery or supply shall be borne by the Supplier.

2.5. HBG may direct the Supplier to alter, add to or omit all or part of the Goods and/or Services. Unless the parties agree upon a price for such variation the price in respect thereof shall be a reasonable price and in accordance with the rates set out in the Purchase Order.

3. Performance and Delivery

3.1. The delivery of all Goods and the performance of all Services must be made at the time, place, and in the manner, stated in the Purchase Order.

3.2. HBG may reasonably specify in writing to the Supplier another time, place or manner for delivery, in which case that other time, place or manner applies in place of that stated in the Purchase Order.

3.3. The Supplier must deliver with the Goods, all documents required to transfer ownership of the Goods and the benefit of any warranties in relation to the Goods, to HBG.

3.4. If required by HBG, the Supplier will also install the Goods (at the Supplier's cost) at the delivery place specified in the Purchase Order in accordance with HBG's reasonable directions and in a proper and workmanlike manner.

3.5. Where the delivery of the Goods or the performance of the Services requires the Supplier to enter a site owned, leased or otherwise controlled by HBG, the Supplier agrees to:

a. comply with all reasonable directions of HBG in relation to occupational health and safety, security and any other matter relevant to provision of the Goods and/or Services on the site;

b. comply with any HBG conditions of entry and any workplace, security or occupational health and safety policies notified by HBG to the Supplier; and

c. undertake induction training in relation to the site requirements of HBG.

3.6. The parties agree that time is of the essence in the Contract.

4. Inspection and Acceptance

4.1. HBG may at any time, including prior to delivery of the Goods, inspect and at its discretion reject any Goods ("Rejected Goods") found not to be in accordance with the Contract. The Supplier authorises HBG to have access to the premises at which the Goods are being stored for that purpose.

4.2. HBG will not be liable to pay for any Rejected Goods or for any damage arising from inspection or rejection of Goods.

4.3. If HBG rejects any Goods, the Supplier must, within 10 days of the Supplier receiving notification of the Rejected Goods, and without prejudice to HBG's rights otherwise arising under the Contract or the general law, comply with a requirement of HBG to:

a. replace, without cost to HBG, the Rejected Goods with goods complying in all respects with the Contract;

b. refund any payment for the Rejected Goods; or

c. repair the Rejected Goods, on site or otherwise, to the satisfaction of HBG; and

d. in the case of (a) or (b), remove the Rejected Goods at the Supplier's expense.

4.4. Without additional cost to HBG, the Supplier must provide access to premises and all other necessary assistance for HBG's representatives to inspect the manufacture of the Goods.

4.5. If HBG requires the Supplier to submit samples of Goods, the Supplier must not proceed to bulk manufacture the Goods until HBG has approved the samples.

5. Title

5.1. Title in, and risk of loss of or damage to, the Goods will only pass to HBG once HBG has received and accepted delivery of the Goods at the delivery place specified in the Purchase Order.

Defects Liability

5.2. Without limiting any of the HBG's rights, and without limiting any other warranty provided elsewhere in the Contract, the Supplier warrants that the Goods and/or Services will be free from any omissions, defects or failures whether due in whole or in part from faulty design, materials or workmanship or any other cause which occurs (whether or not apparent) at any time from the date of acceptance of all of the Goods and/or completion of all of the Services until the date that is 12 months from the date the Goods and/or Services are put into commercial use, notwithstanding that such omissions, defects or failures come to the attention of HBG at any time after expiry of that period.

5.3. Without limiting any other rights of HBG, if the Supplier breaches its obligations under clause 6.1, the Supplier shall, at the option of HBG:

a. refund the price for and, where applicable, remove, such of the Goods as do not conform with the Contract;

b. repair, modify or replace at the Supplier's expense, such of the Goods as do not so conform with the Contract; and/or

c. supply again the Services which in the opinion of the HBG do not so conform with the Contract;

d. and the Supplier shall be liable for all resulting costs and expenses incurred by HBG, including but not limited to, where applicable, any costs and expenses incurred by HBG in recovering the Goods, testing them, returning them to the Supplier, re-installing and recommissioning them.

5.4. HBG may, at its option, have any repair, modification or replacement of the Goods or resupply of the Services referred to in clause 6.2 undertaken by a third party or undertake the repair, modification, replacement or resupply itself, and all resulting costs and expenses shall be borne by the Supplier.

6. Warranty

6.1. The Supplier hereby warrants to HBG that:

a. the Goods and/or Services correspond to the description in the Contract and conform to all relevant specifications, drawings, samples and/or descriptions;

b. the Goods and/or Services are fit and sufficient for the purpose for which they are intended;

c. the Goods and/or Services are of the quality specified or, if no quality is specified, in the case of Goods, new and of the best merchantable quality, and in the case of Services, are performed with due care, skill and diligence, in a proper and workmanlike manner and to the standard acceptable amongst members of the trade, industry or profession relevant to the Services;

d. the Goods will operate satisfactorily and reliably under all normal operating conditions;

e. the Goods are free of all liens and encumbrances and the Supplier has good title to them;

f. the Goods and/or Services strictly comply with all applicable laws, regulations, standards and codes;

g. the Supplier is legally entitled to transfer, and will transfer, ownership of the Goods to HBG; and

h. in the case of provision of Services, the Supplier's personnel are suitably qualified, capable of rendering the Services and have all licences and approvals required to perform the Services.

7. Design and Specifications

7.1. If HBG reviews design drawings, specifications, construction drawings or workshop drawings or any other documents prepared by or on behalf of the Supplier, gives any approval, direction, or instruction to the Supplier, or provides information to the Supplier, this shall not relieve or reduce the Supplier's sole responsibility for the supply of the Goods and performance of the Services in accordance with the Contract, nor release the Supplier from its obligations under clauses 6 and 7, and shall not restrict HBG's rights and remedies under the Contract or constitute acceptance by HBG that the Supplier has complied with its obligations under the Contract.

Intellectual Property

7.2. The Supplier hereby grants to the HBG a perpetual, irrevocable, non-exclusive, royalty-free, transferable licence (with the right to sub-licence) to use all Intellectual Property (whether owned by the Supplier or not) which is used or developed by the Supplier in connection with the Goods or Services being supplied under the Contract.

7.3. The Supplier warrants that:

a. the supply of the Goods and/or Services by the Supplier to HBG and the licence granted by the Supplier pursuant to clause 9.1 does not infringe the Intellectual Property rights (including moral rights) of any third party; and

b. the Goods and Services are not subject to any Intellectual Property rights of any third party that in any way restrict the rights of HBG or its customers to use or sell the same.

8. GST

8.1. Unless defined in these General Conditions, terms used in this clause have the meanings given to those terms in the GST Act.

8.2. Unless otherwise stated in the Contract, all amounts payable by one party to another party under the Contract are GST exclusive.

8.3. If GST is imposed or payable on any supply made by a party under the Contract, the recipient of the supply must pay to the supplier, in addition to the GST exclusive consideration for that supply, an additional amount equal to the GST exclusive consideration multiplied by the prevailing GST rate. The additional amount is payable at the same time and in the same manner as the consideration for the supply.

9. Assignment and Subcontracting

9.1. The Supplier must not, without the consent in writing of HBG, assign its rights under the Contract or subcontract any part of the performance of the Contract.

10. Set-Off

10.1. HBG may set-off any amount due from the Supplier to HBG or that HBG is entitled to be paid under the Contract, against any amount payable by HBG to the Supplier under the Contract.

11. Termination for Insolvency or Breach

11.1. Without prejudice to its rights at common law, HBG may, by notice in writing to the Supplier, terminate the Contract if the Supplier:

a. becomes bankrupt or insolvent; being a partnership, becomes dissolved; makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors or has a receiver or receiver and manager appointed; goes into liquidation or passes a resolution to go into liquidation, otherwise than for the purpose of reconstruction; or becomes subject to any petition or proceedings in a court for its compulsory winding-up or becomes subject to supervision of a court either voluntarily or otherwise; or suffers any execution against its assets; or

b. fails to deliver the Goods or perform the Services by the date specified in the Purchase Order;

c. commits any other breach of the Contract (including a breach of any warranty under the Contract) and fails to remedy such breach within 14 days of receiving notice from HBG to remedy the breach; or

d. assigns its rights otherwise than in accordance with the requirements of the Contract.

11.2. Where, before termination of the Contract under clause 13.1, HBG has made any payment to the Supplier in advance, the total amount of that advance payment must be repaid by the Supplier to HBG on termination and, if not repaid is recoverable by HBG from the Supplier as a debt.

11.3. If the Contract is terminated under this clause:

a. the parties are relieved from future performance, without prejudice to any right of action that has accrued at the date of termination;

b. rights to recover damages are not affected; and

c. the Supplier must indemnify HBG in respect of any loss it incurs in connection with the termination (including any costs associated with purchasing similar Goods or Services from other suppliers).

12. Confidentiality

12.1. The Supplier must not (and must require its employees, agents and subcontractors to not) disclose any confidential information of HBG given in connection with the Contract and identified as having, or marked with, a classification indicating its confidentiality.

12.2. This clause does not apply to information which is part, or becomes part, of the public domain otherwise than by breach of this clause or any information which is required to be disclosed pursuant to any law.

13. Compliance with Laws

13.1. This Contract is subject to and construed in accordance with the laws of the State of Tasmania and the parties agree to submit to the jurisdiction of the courts of that State and any courts having appellate jurisdiction from them.

13.2. The Supplier must, in carrying out the Contract, comply with all applicable laws and any requirements of relevant authorities in relation to provision of the Goods and/or Services.

14. Indemnity

14.1. The Supplier must at all times indemnify HBG, its officers, employees and agents ("those indemnified") from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from:

a. any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Supplier, its officers, employees, agents or subcontractors in connection with the Contract;

b. any breach of the Contract by the Supplier (including any delay in the delivery of Goods or performance of Services).

15. Remedies

15.1. The Supplier acknowledges that HBG has entered into the Contract in reliance on the warranties set out in the Contract.

15.2. The Supplier represents, warrants and undertakes to HBG that each of the warranties in the Contract is true and correct on the date of the Purchase Order and the date of delivery of the Goods or performance of the Services, as if made on and as at each of those dates.

15.3. The Supplier indemnifies HBG against any Claim to the extent that the Claim arises from or is connected with a breach of any of the Supplier's warranties given under the Contract.

16. General

16.1. HBG shall have no liability to the Supplier in respect of any matter in connection with the Contract unless the Claim together with full particulars thereof is lodged with HBG within 21 days of the occurrence of the event(s) or circumstance(s) on which the claim is based.

16.2. If any provision or part of any provision of the Contract is unenforceable, such unenforceability shall not affect any other part of such provision or any other provision of the Contract.

16.3. Any waiver by HBG of strict compliance with any provision of the Contract shall not be effective unless in writing and signed by an authorised officer of HBG.

16.4. Delivery acronyms such as FCA, FOB, CIF used in the contract shall be interpreted in accordance with INCOTERMS 2000 edition.

16.5. No provision of the Contract shall be construed adversely against one party solely on the basis that that party was responsible for the drafting of that provision.

16.6. The Contract may not be varied except by agreement in writing between both parties.

16.7. The parties acknowledge that the relationship established by the Contract is that of principal and independent contractor. No relationship of employment, partnership or joint venture is intended to exist or be inferred between the parties.

17. Dispute resolution

17.1. In the event of a dispute between the parties, the disagreement shall, in the first instance, be referred in writing to appropriate managerial personnel within each party's business. The reference will include details of the substance of the dispute and a proposal to resolve the dispute.

17.2. Failing resolution of the dispute within 14 days following the delivery of a notice pursuant to Clause 17.1, the parties may either jointly agree to appoint an Arbitrator pursuant to the Commercial Arbitration Act or alternatively litigate the dispute in a Court of competent jurisdiction.

17.3. Nothing in the Clause prevents either party from seeking urgent interlocutory relief from a Court of competent jurisdiction.

17.4. The parties agree to perform their obligations under the Contract, notwithstanding the existence of a dispute.