



PAPUAN OIL SEARCH LIMITED

ABN - 62 000 251 025

GOODS PURCHASE ORDER GENERAL TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these General Terms and Conditions the following words and expressions have the following meanings:

"Affiliate" means a related body corporate as defined in section 9 of the *Corporations Act 2001* (Cth).

"Business Day" means a day that is not a Saturday, Sunday, public holiday or bank holiday in the State of New South Wales.

"Claims" mean any claim, action, suit, proceeding (including proceeding for contribution or indemnity), demand, judgement, loss, expense (including economic loss, interest, and consequential loss of profit) or liability incurred by or to or made or recovered by or against any person, howsoever arising and whether present, unascertained, immediate future or contingent.

"Company Group" means the Company, its Co-Venturers, its and their respective Affiliates and its and their respective directors, officers, employees and consultants but, for the avoidance of doubt, does not include the Seller.

"Completion" means the time at which:

- (a) the Goods meet the requirements of this GPO;
- (b) the tests which are required under this GPO to be carried out and passed before Completion occurs have been carried out and passed; and
- (c) documents and other information required under this GPO which are, in the reasonable opinion of the Company, essential for the use, operation and maintenance of the Goods have been supplied to the Company.

"Co-Venturers" means any co-venturers with the Company from time to time having an interest in the exploration or production licence under which work is being performed and the successors in interest of such Co-Venturers or the assignees of any interest of such Co-Venturers.

"Day" means a calendar day.

"Effective Date" means the "G.P.O Issue Date" as specified on the first page of this GPO.

"Fee" has the meaning given to it in clause 6.1.

"Force Majeure Event" is limited to the following events only:

- (a) 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;
- (b) earthquake, flood, fire, explosion or other natural physical disasters, but excluding weather conditions regardless of severity;
- (c) strikes at a national or regional level or industrial disputes at a national or regional level by labour not employed by the affected party, its sub-contractors or suppliers and which affect a substantial or essential portion of the Goods;
- (d) governmental or quasi-governmental restraints, inability or delay in obtaining governmental or quasi-governmental approvals, consents, permits, licences, authorities or allocations; and
- (e) maritime or aviation disasters.

"General Terms and Conditions" means these General Terms and Conditions and applicable to this GPO.

"Goods" means all goods, equipment, materials, articles or any other property or parts provided or to be provided to the Company by the

Seller in accordance with this GPO and includes, without limitation, all services including design, manufacture, modification, inspection, testing, expediting, quality assurance and control, painting, packing and delivery as specified or required in this GPO.

"Goods Purchase Order" or **"GPO"** means the contract formed by the acceptance of this goods purchase order and incorporates these General Terms and Conditions as may be amended by any Special Conditions.

"Government" means any government or any public, statutory, governmental (including a local government), semi-governmental, local governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute.

"GST" has the meaning given to that term in the GST Act.

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

"Indemnify" means release, defend, indemnify and hold harmless.

"Input Tax Credit" has the meaning given to that term in the GST Act.

"Insolvency Event" means in respect of a party (other than for the purpose of solvent reconstruction or amalgamation):

- (a) a receiver, receiver and manager, liquidator, provisional liquidator, trustee, administrator, controller, inspector appointed under any companies or securities legislation, or similar official is appointed in respect of that party or any of its property, or security over any substantial part of its assets is enforced;
- (b) the party ceases to carry on all or substantially all of its business, is unable to pay its debts when due, or is deemed unable to pay its debts under any law, or makes an assignment for the benefit of, or enters into or makes any arrangement or compromise with, that party's creditors or threatens to do so, or stops payments to its creditors generally;
- (c) the party is, becomes, or is deemed to be insolvent;
- (d) a distress, attachment or other execution is levied or enforced upon or commenced against any substantial part of its assets and is not stayed within 14 days;
- (e) anything having a similar effect to any of the events specified above happens under the law of any applicable jurisdiction; or
- (f) in the event that the party is an individual, anything having a similar effect to any of the events specified above happens in respect of that individual.

"Liability" means a Claim of any nature, whether under the law of contract, the law of tort or any other law or under any statute.

"Loss" includes any loss, liability, damage, destruction, injury, accident, Claim or cost incurred at any time, and any fact causing or giving rise to any loss within any previous meaning, whether directly or indirectly, actually or potentially.

"Party" means each of the Company and the Seller as appropriate, and **"Parties"** means both of the Company and the Seller.

"Personal Injury" includes death, disease, illness and mental and bodily injury.

"Recipient" has the meaning given to that term in the GST Act.

"Seller Group" means the Seller, its subcontractors of any tier, its and their respective Affiliates and its and their respective directors, officers, employees and consultants.

"Special Conditions" means those special conditions as detailed in Schedule A to this GPO.



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"Supplier" means any party treated by the GST Act as making a Supply under this Agreement.

"Supply" has the meaning given to that term in the GST Act.

"Tax Invoice" has the meaning given to that term in the GST Act.

"Taxable Supply" has the meaning given to that term in the GST Act.

"Taxes" means all forms of taxes, duties, imposts, charges, withholdings, rates, levies or other governmental impositions imposed, assessed or charged by any Government, together with all interest, penalties, fines, expenses and other additional statutory charges resulting from a failure to pay when due the full amount of any such imposition.

"Third Party" means any person who is not a member of either the Company Group or the Seller Group.

1.2 Interpretation

In these General Terms and Conditions, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) the headings are used for convenience only and do not affect the interpretation of these terms and conditions;
- (d) if something is to be done on a day which is not a Business Day then that thing must be done on the next or following Business Day;
- (e) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (f) the word "month" means calendar month and the word "year" means 12 months;
- (g) the words "in writing" include any communication sent by letter, facsimile transmission;
- (h) a reference to all or any part of a statute, rule, regulation or ordinance ("statute") includes that statute as amended, consolidated, re enacted or replaced from time to time;
- (i) wherever "include" or any form of that word is used it must be construed as if it were followed by "(without being limited to)";
- (j) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted renamed or replaced or has its powers or functions removed ("defunct body"), means the agency or body which performs most closely the functions of the defunct body;
- (k) delivery terms in this GPO are as defined in the 2000 edition of 'INCOTERMS', issued by the Headquarters of the International Chamber of Commerce in Paris, France;
- (l) the provisions of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) do not apply to this Agreement and are expressly excluded in all respects.

2. TERM

This GPO will take effect from the Effective Date and will continue in full force and effect until Completion occurs or until otherwise terminated in accordance with these General Terms and Conditions.

3. PACKAGING

3.1 Protection of Goods

The Goods must be properly packed and packages must be sufficiently strong to withstand rough handling from the Seller's point(s) of issue,

and while in transit, stowage & storage, to final delivery to the Company to prevent deteriorating or damage to the Goods. Packing list must be included in each box or individual units of packing.

3.2 Packing Material

- (a) Goods required to be shrink-wrapped must be done so using 'Tropical Strength' shrink-wrapping.
- (b) All packing material will comply with all relevant statutory requirements and regulations. The Seller will Indemnify the Company against all Claims or Liability suffered or incurred by it as a result of such packing material not so complying.

3.3 Hazardous Materials

- (a) The Seller must advise the Company of any hazard inherent in the material ordered and provide information (such as those required on chemicals), in respect of safety, environmental and health hazards, including toxicity, flammability, reactivity and corrosiveness, together with handling and storage requirements, action to be taken in case of fire or spillage, and health precautions to be observed. A correct material safety data sheet must accompany the Goods when picked-up by the Company's nominated carrier and/or delivered to the Company's nominated delivery point.
- (b) Where applicable the International Maritime Dangerous Goods code and the UN number must be specified, along with full compliance with International Air Transport Association regulations and requirements.
- (c) The Seller will comply with international standards of marking and labelling each package of dangerous Goods and each over pack containing dangerous Goods.

4. DELIVERY

4.1 Unless otherwise specified in this GPO, the Goods must be delivered FCA Seller's works to the delivery point and by the delivery date(s) specified in this GPO. The Goods must be accompanied by a delivery docket which will be signed by a duly authorised representative of the Company at the point of delivery.

4.2 If at any time it appears that the Seller will not be able to meet its obligations in accordance with the due dates for delivery set out in this GPO, the Seller must immediately notify the Company. The Company may (without prejudice to any other right) terminate all or any part of this GPO or instruct the Seller, at the Seller's own cost to take all necessary steps to expedite the rate of progress including but not limited to subcontracting, additional shifts, overtime and supplying additional manpower and resources and equipment as may be required.

5. TITLE AND RISK

5.1 Risk of loss, damage or deterioration of or to the Goods from any cause whatsoever will remain with the Seller and will not pass to the Company until Completion occurs.

5.2 Title in the finished Goods and/or title in the materials to be used in the manufacture of the Goods will pass from the Seller to the Company upon delivery of the Goods to the delivery point except where payment for the Goods (in whole or in part) is made by the Company prior to delivery in which event property in the Goods will pass to the Company as soon as payment is made.

5.3 Notwithstanding clauses 5.1 and 5.2 above, if:

- (a) there are any defects in the Goods; or
- (b) the Goods are damaged when delivered to the Company,

title and risk in the Goods remain with the Seller.



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6. PRICES AND PAYMENT

- 6.1 The Company must pay the Seller the lump sum prices as specified on the above panel pages of this GPO ("Fee") for the supply of the Goods by the Seller.
- 6.2 All prices are fixed and not subject to any variation, including but not limited to, variations in the cost of labour, materials or exchange rates, unless otherwise provided for in the Special Conditions or in this GPO.
- 6.3 The Company will not be liable to pay the Seller any compensation, reimbursement of expenses, fees or any other payment whatsoever, other than the Fee.
- 6.4 Unless otherwise specified in this GPO, an invoice must be submitted to the Company for payment upon Completion and delivery of the Goods to the delivery point and accepted by the Company occurring.
- 6.5 Each invoice must include this GPO's project number and title and must be forwarded together with full original documentary evidence. All invoices will be in such detail as may be requested by the Company.
- 6.6 All undisputed and approved invoices will be paid by the Company within 30 Days after receipt of such invoice.
- 6.7 Payment of any invoice does not prejudice the right of the Company to claim reimbursement of any charge found to be invalid in whole or in part at a later date.
- 6.8 If the Company in good faith disputes whether the whole or part of an invoice submitted by the Seller is payable, the Company:
- (a) may withhold the disputed amount of that invoice; and
 - (b) must give written notice to the Seller, within 10 Business Days after receiving the invoice, of the amount disputed and reasons for the dispute.
- 6.9 The Seller must issue a revised invoice to the Company specifying the undisputed items. The Company must pay the agreed amount for that invoice within 30 Days after receipt of such revised invoices.
- 6.10 Upon resolution of the disputed items in an invoice, the Seller must issue a revised invoice to the Company specifying the agreed amount to be paid. The Company must pay the agreed amount for that invoice within 30 Days from the date the Parties resolved the dispute.
- 6.11 If the Company and Seller are unable to resolve any disagreement between them regarding the amount disputed within 5 Business Days of the Seller receiving the Company's notice under clause 6.9(b), either Party may invoke the dispute resolution process in clause 11.
- 6.12 Unless otherwise specified in this GPO, the following documents must be submitted to the Company with the Seller's invoice:
- (a) original and one copy of Bill of Lading/Bill of Consignment (as applicable);
 - (b) original of Seller's Commercial Invoice;
 - (c) original of Seller's Packing List; and
 - (d) original Materials Certificates and Inspection Release Certificates.

7. TESTING AND INSPECTION

- 7.1 The Goods must be tested, in accordance with the requirements of any specifications contained in or referred to in this GPO. Testing (including the costs of testing) is the Seller's responsibility. The test results must be promptly supplied to the Company in writing.

- 7.2 The Company may inspect, expedite and monitor the Goods prior to delivery of the Goods and the Seller must give the Company access to the Seller's premises for such purpose during normal working hours.
- 7.3 Any inspection by the Company will not relieve the Seller from its obligations to comply with the requirements of this GPO and will in no way impair the Company's right to require subsequent correction of non conforming Goods.
- 7.4 The Seller is deemed to have examined all documents furnished by the Company and any other relevant information in relation to the Goods to have fully satisfied itself regarding the conditions, risks, contingencies and other circumstances that might affect the supply of the Goods. No increase in price will be allowed for the Seller's failure to ensure that it is fully informed regarding this GPO.

8. CHANGES

The Company may make changes in drawings, specifications, quantities, delivery schedules, or methods of shipment or packaging for any of the Goods at any time. If such changes result in an increase or decrease in the price, it must be adjusted accordingly. If the Parties are unable to agree on the amount of the adjustment, the Company acting reasonably will determine the amount of the adjustment.

9. WARRANTY

- 9.1 The Seller warrants and represents to the Company that:
- (a) the Seller has full power and authority to execute this GPO and to perform and observe all of its terms and provisions;
 - (b) this GPO has been duly executed by the Seller and is a legal and binding agreement of the Seller enforceable against it in accordance with the terms of this GPO;
 - (c) the Seller has the right to sell the Goods free from all charges and encumbrances and that the Company will enjoy quiet possession of the Goods;
 - (d) the Goods are fit for the purpose which the Company discloses to the Seller or for the purpose for which they are commonly supplied and are of merchantable quality and will be rendered with due care and skill;
 - (e) the Goods are free from any defects in design, materials and workmanship;
 - (f) the Goods comply with any sample of the Goods supplied to the Company;
 - (g) the Goods comply with all statutory requirements and regulations including those relating to:
 - (i) the safety, manufacture, packaging, labelling, transportation and sale of the Goods; and
 - (ii) the nature, substance, quality, weight and measurement of the Goods;
 - (h) the Goods do not infringe any patent, copyright, trademark or other proprietary rights; and
 - (i) the Seller will not accept or give any secret commission or benefits of any kind in connection with the Goods.

9.2 Without limiting the operation of any other provision of these General Terms and Conditions, the Company is entitled to the benefit of all warranties conferred by law and the operation of any such warranty for the benefit of the Company may not be excluded by the Seller.

9.3 Liability

To the maximum extent permitted by law, the Seller's liability for a breach of a condition or warranty is limited to, at the Company's election, at the Seller's own expense:



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- (a) the replacement of the Goods or the supply of equivalent Goods;
- (b) the repair of the Goods;
- (c) the payment of the cost of replacing the Goods or of acquiring equivalent Goods; or
- (d) the payment of the cost of having the Goods repaired.

10. INDEMNITY AND INSURANCE

10.1 The Seller is responsible for and must Indemnify each member of the Company Group from and against all Claims and Liabilities in respect of any breach or alleged breach of patent, registered design, trade mark, copyright or other proprietary right in respect of the Goods or other obligations under this GPO.

10.2 The Seller agrees to Indemnify the Company Group against all Claims resulting from the Personal Injury to any person or Loss of property arising out of the supply of the Goods or any activity incidental to the supply of the Goods to the extent that the Personal Injury is caused or contributed to by the tortious act or omission or statutory breach of a member of the Seller Group.

10.3 Insurance

- (a) The Seller must, during the term of this GPO, take out and maintain at its own expense the following insurances or that required by applicable law:
 - (i) all risks insurance to the full replacement value of the Goods;
 - (ii) third party legal liability insurance covering bodily injury, sickness or death and loss of or damage to property in an amount of at least five million US dollars (US\$ 5,000,000) or such other amount as specified in the Special Conditions for each claim or series of claims arising out of any one incident; and
 - (iii) any other insurances that a reasonable and prudent person engaged in the relevant industry would effect and maintain.
- (b) The Seller must not insure shipments for the Company's account without the Company's express written instructions.
- (c) The taking out of insurance under this GPO does not relieve the Seller of any of its obligations or liabilities under this GPO or otherwise at law.
- (d) The insurances referred to in clause 10.3(a) must:
 - (i) name the Company Group as co-insureds with the Seller to the extent of the indemnities given by the Seller in this GPO;
 - (ii) be taken out with an independent and reputable insurer;
 - (iii) contain cross liability and a waiver of insurers' rights of subrogation against each member of the Company Group to the extent of the indemnities given by the Seller in this GPO; and
 - (iv) prior to commencing the supply of the Goods or at the request of the Company, produce evidence to the satisfaction and approval of the Company of the insurances required to be effected.

10.4 Liquidated Damages

The Seller agrees that the amount specified for liquidated damages (if any) in this GPO may be deducted from any money owing to the Seller from the Company as liquidated damages and not as a penalty each

week or part week, up to a maximum as specified in the Special Conditions (if any) provided always that the above provisions are without prejudice to any other rights or remedies available to the Company under this GPO or otherwise at law. Such amount is liquidated damages for delay and is agreed as being a genuine pre-estimate of the Company's loss in the event of such delay.

10.5 The provisions of this clause 10 survive the expiry or earlier termination of this GPO.

11. DISPUTES

11.1 Disputes or differences arising between the Company and the Seller will be settled by negotiation within 2 weeks of the dispute arising.

11.2 In the event of any unresolved dispute, the Seller will ensure that the progress of the Goods continues without any effect on the specified delivery date(s).

11.3 If the Company and the Seller are unable to settle a dispute pursuant to the negotiation period referred to in clause 11.1, either party may take appropriate action in the Courts of New South Wales to resolve the dispute.

12. DEFAULT, SUSPENSION AND TERMINATION

12.1 Suspension by the Company

The Company may, at any time suspend this GPO for any reason whatsoever. Upon receipt of a notice of suspension, the Seller must cease the supply of the Goods in accordance with the directions received and must immediately recommence the supply of the Goods when written directions to do so are received from the Company.

12.2 Termination by Force Majeure Event

If by reason of a Force Majeure Event, the Seller is prevented from performing any part of this GPO for a continuous period of ten (10) Days or more, the Company may at any time thereafter terminate this GPO by written notice to the Seller with immediate effect.

12.3 Termination by Seller

The Seller may, without prejudice to any other rights or remedies, terminate this GPO if:

- (a) the Company defaults in the due payment of any undisputed moneys payable to the Seller for a continuous period of 21 Days following written notice; or
- (b) if an Insolvency Event occurs in respect of the Company.

12.4 Termination by the Company

- (a) Without prejudice to its other rights or remedies under this GPO or at law, the Company may terminate this GPO if:
 - (i) the Seller fails to deliver the Goods to the delivery point by the delivery date(s); or
 - (ii) the Seller fails to ensure that Completion occurs by the required Completion date; or
 - (iii) the Seller breaches any other of its material obligations under this GPO and the breach is not capable of being remedied, or the breach is capable of being remedied and the Seller fails to remedy the breach to the Company's satisfaction within 7 Days after notice in writing has been given to the Seller requiring such breach to be remedied; or
 - (iv) an Insolvency Event occurs in respect of the Seller.

(b) Notwithstanding any other provision of this GPO, the Company may terminate this GPO at any time and/or for any reason by written notice.

12.5 Suspension and termination payment



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- (a) If the Company suspends this GPO pursuant to clause 12.1 and the suspension is caused by the tortious act or omission or statutory breach of any member of the Seller Group, the Seller must immediately repay to the Company all amounts which have been paid to the Seller at that time together with all reasonable costs and expenses incurred by the Company in connection with such suspension.
- (b) If the Company suspends this GPO pursuant to clause 12.1 and the suspension is caused by the tortious act or omission or statutory breach of any member of the Company Group, the Company will continue to pay the Seller the full amount as specified in this GPO together with all reasonable costs and expenses incurred by the Seller in connection with such suspension.
- (c) If the Company suspends this GPO pursuant to clause 12.1 and the suspension is not caused by the tortious act or omission or statutory breach of any member of the Seller Group or the Company Group, all payments under this GPO will be suspended until this GPO resumes operation.
- (d) If the Company terminates this GPO pursuant to clause 12.2, the Seller will be paid for the Goods supplied and performed up to the date of termination. The Seller will not be entitled in contract, tort or otherwise to any additional payment or compensation for losses incurred as a result of the termination.
- (e) If the Seller terminates this GPO pursuant to clauses 12.3, the Company must pay the Seller the full amount as specified in this GPO together with all reasonable costs and expenses incurred by the Seller in connection with such termination.
- (f) If the Company terminates this GPO pursuant to clause 12.4(a), the Seller must immediately repay to the Company all amounts which have been paid to the Seller at the date of termination together with all reasonable costs and expenses incurred by the Company in connection with such termination.
- (g) If the Company terminates this GPO in accordance with clause 12.4(b) and the Seller is not in default, the Company must pay the Seller for all the Goods supplied and performed up to the date of termination.

12.6 Survival

Termination of this GPO will not affect clauses 6.7, 9, 10, 11, 14, 15 and 16.8 or any other provisions of this GPO which are intended to continue after termination and will also be without prejudice to any claim by either party against the other party arising out of any breach or non-performance by that party of any obligations assumed by or imposed on that party under this GPO at any time prior to termination.

13. **FORCE MAJEURE**

Where either the Company or the Seller is unable, wholly or in part, by reason of a Force Majeure Event, to carry out any obligation under this GPO and:

- (a) that Party gives the other Party immediate written notice of the nature and expected duration of, and the obligation affected by, the Force Majeure Event; and
- (b) that Party uses all reasonable endeavours to:
 - (i) mitigate the effects of the Force Majeure Event on that Party's obligations under this GPO; and
 - (ii) perform that Party's obligations under this GPO despite the Force Majeure Event,

that obligation is suspended so far as it is affected by the Force Majeure Event during its continuance.

14. **TAXES, DUTIES AND ASSESSMENTS**

14.1 General

Except as otherwise provided in this GPO, the Seller must pay any and all Taxes, duties, assessments or other charges of any kind levied by any Government or authority in connection with the Goods or the payments to be made under this GPO payable by or in respect of the Seller. The Company may deduct from money due to the Seller any such amounts the Company is required by law to pay on the Seller's behalf.

14.2 Consideration is GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in connection with this GPO are exclusive of GST.

14.3 Payment of GST

- (a) If GST is imposed on any Supply made under or in accordance with this GPO the Recipient of the Taxable Supply must pay to the Supplier an additional amount equal to the GST payable on or for the Taxable Supply, subject to the Recipient receiving a valid Tax Invoice in respect of the Supply at or before the time of payment.
- (b) Payment of the additional amount must be made at the same time and in the same way as payment for the Taxable Supply is required to be made in accordance with this GPO.

14.4 Reimbursement of expenses

If this GPO requires a party ("the First Party") to pay for, reimburse, set off or contribute to any expense, loss or outgoing ("Reimbursable Expense") suffered or incurred by the other party ("the Other Party"), the amount required to be paid, reimbursed, set off or contributed by the First Party will be the sum of:

- (a) the amount of the Reimbursable Expense net of Input Tax Credits (if any) to which the Other Party is entitled in respect of the Reimbursable Expense ("**Net Amount**"); and
- (b) if the Other Party's recovery from the First Party is a Taxable Supply, any GST payable in respect of that Supply,

such that after the Other Party meets the GST liability, it retains the Net Amount.

15. **CONFIDENTIALITY**

15.1

Except as provided below, all information provided by the Company to the Seller, in connection with this GPO, including, but not limited to any information with respect to the Company's operations is confidential, and the Seller must not disclose such information to any Third Party without the prior written consent of the Company. All such information remains the property of the Company. The obligations contained in this clause 15.1 are continuing and survive the completion or termination of this GPO.

15.2

The Seller must not make any announcement concerning the Goods, the terms on which those Goods are supplied or the Company's operations without the prior written approval of the Company. The obligations contained in this clause do not apply to information which is in the public domain at the time it is disclosed other than as a consequence of the information having been disclosed by the Seller. No documents provided by the Company in connection with the Goods may be copied by the Seller or used for any purpose other than the supply of the Goods without the prior written approval of the Company.

15.3

The Seller grants to the Company a royalty free irrevocable licence to use in all countries any invention developed by any member of the Seller Group as a result of supplying the Goods. The licence includes



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the right to make, use and sell throughout the world any substance produced or during the operation of the invention.

The Company and the Seller agree that any Special Conditions set out in this GPO will take precedence over the General Terms and Conditions to the extent of any inconsistency.

16 GENERAL PROVISIONS

16.1 Relationship of the Parties

Unless this GPO expressly provides otherwise, nothing in this GPO may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary.

16.10 Assignment

(a) The Seller may not assign this GPO in whole or in part or any part of the Goods without the prior written consent of the Company, which consent must not be unreasonably withheld.

16.2 Time of the essence

In this GPO, time is of the essence unless otherwise stipulated.

(b) The Company has at all times the right to assign in whole or in part its right and obligations under this GPO to its Affiliate, without the consent of the Seller. An assignment by the Company to a person or corporation other than its Affiliate or to one of the Co-Venturers may only be made with the prior written consent of the Seller which will not be unreasonably withheld.

16.3 Entire understanding

(a) This GPO contains the entire understanding between the Parties concerning the subject matter of the GPO and supersedes all prior communications between the Parties.

(b) Each Party acknowledges that, except as expressly stated in this GPO, that Party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another Party in relation to the subject matter of this GPO.

16.11 Subcontracting

(a) The Seller may not subcontract this GPO in whole or in part or any part of the Goods without the prior written consent of the Company, which consent must not be unreasonably withheld.

16.4 No Adverse Construction

This GPO is not to be construed to the disadvantage of a Party because that Party was responsible for its preparation.

(b) Notwithstanding the Company's consent and approval under clause 16.11(a), no subcontract will relieve the Seller from any of its obligations or liabilities under this GPO and the Seller will be responsible for the acts and/or omissions of any subcontractor, its directors, officers and employees as fully as if they were the acts and/or omissions of the Seller.

16.5 No Waiver

(a) A failure, delay, relaxation or indulgence by a Party in exercising any power or right conferred on the Party by this GPO does not operate as a waiver of the power or right.

(b) A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this GPO.

(c) A waiver of a breach does not operate as a waiver of any other breach.

(c) Every subcontract entered into by the Seller must contain a provision permitting assignment to the Company.

16.6 Severability

Any provision of this GPO which is invalid in any jurisdiction must in relation to that jurisdiction:

(a) be read down to the minimum extent necessary to achieve its validity, if applicable; and

(b) be severed from this GPO in other case,

without invalidating or affecting the remaining provisions of this GPO or the validity of that provision in any other jurisdiction.

16.7 No Variation

This GPO cannot be amended or varied except in writing signed by the Parties.

16.8 Governing Law and Jurisdiction

(a) This GPO is governed by and must be construed in accordance with the laws in force in the State of New South Wales.

(b) The Parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this GPO, its performance or subject matter.

16.9 Order of precedence and conflict in documents