Oil Search

GOODS PURCHASE ORDER: GENERAL TERMS & CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless the contrary intention appears words and expressions in these General Terms & Conditions have the following meanings:

Adjustment Note has the meaning in the GST Act.

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

Agreement means the Agreement between the Company and the Seller comprising the Goods Purchase Order or GPO and these General Terms & Conditions.

Business Day means a Day which is not a Saturday, Sunday, a public holiday (for the whole Day) or a public holiday (for the whole Day) in the State of New South Wales, Australia.

Claim means 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.

Commissioner means the Commissioner of Taxation under the *Taxation Administration Act 1953* (Cth) including a delegate thereof.

Company means Papuan Oil Search Limited (ABN 62 000 251 025).

Company Group means the Company its and their respective Affiliates, its Co-Venturers, , the Company's contractors and their Subcontractors of any tier, and its and their respective employees, officers, directors, and consultants but, for the avoidance of doubt, does not include a member of the Seller Group.

Completion means the time at which:

(a) the Goods meet the requirements of this Agreement;

(b) the Tests which are required under this Agreement to be carried out and passed before Completion occurs have been carried out and passed; and

(c) documents and other information required under this Agreement which are, in the reasonable opinion of the Company, essential for the use, operation and maintenance of the Goods have been received by the Company.

Customs Tax means any Tax, duty, import Tax, levy or surcharge however described on or in connection with the importation or re-exportation of the Goods, or other items into Australia or any other jurisdiction.

Day means a calendar Day.

Defect means a failure of any Goods to comply with their Specifications or any terms of the relevant GPO.

Documentation means:

(a) the Specifications;

(b) all user Documentation; and

(c) any other documents or information set out in this Agreement.

Due Date for the delivery of Goods means the date (if any) specified in the GPO as the Due Date for delivery.

Effective Date means the date of the GPO.

Fee has the meaning set out in clause 6.1.

Force Majeure Event means an event or circumstance which is beyond the control and without the fault or negligence of the Party affected and which by the exercise of due diligence the Party affected was unable to prevent including the following:

(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;

(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 Subcontractors or suppliers and which affect a substantial or essential portion of the Services;

(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 & Conditions means these General Terms & Conditions, which are applicable to this Agreement.

Goods means all Goods, equipment, materials, articles or any other property or parts provided or to be provided by the Seller to the Company in accordance with this Agreement and includes: all services including design, manufacture, modification, inspection, testing, expediting, quality assurance and control, painting, packing and delivery as specified or required in this Agreement.

Goods Purchase Order or **GPO** means an order for Goods issued by the Company to the Seller.

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

GST has the meaning in the GST Act.

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

GST-free has the meaning in the GST Act.

Income Tax means any Tax, and includes any Income Tax, capital gains Tax, additional profits Tax, carbon Tax, surface Tax, windfall profits Tax, contribution, duty, Fee, group Tax, impost, levy, withholding Tax, or other charge or Tax however described.

Income Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), as applicable.

Indemnify means release, defend, Indemnify and hold harmless.

Input Tax Credit has the meaning 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, or threatens to cease, 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) a resolution is passed for the winding up of a Party (other than for the purposes of reconstructions or amalgamation on terms which have been previously approved in writing by the other Party);

(d) the Party is, becomes, or is deemed to be insolvent;

(e) 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;

(f) anything having a similar effect to any of the events specified above happens under the Law of any applicable jurisdiction; or

(g) 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.

Intellectual Property Rights or IPR means all intellectual property rights at any time protected by statute or common Law, including but not limited to:

(a) patents, copyright, rights in circuit layouts, registered designs, trademarks and any right to have Confidential Information kept confidential; and

(b) any application or right to apply for registration of any of the rights referred to in paragraph (a)

Law means any order, regulation, rule, subordinate legislation, statute or other document enforceable under an order, regulation, rule, subordinate legislation or statute.

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 or expense (including legal Fees) 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.

Month means a calendar Month.

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.

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Personnel

(a) of the Company means officers, agents and employees of a member of the Company Group or any of their contractors (other than the Seller); and

(b) of the Seller means officers, agents and employees of a member of the Seller Group or any of their contractors.

Personnel Tax means any Tax on or in connection with compensation, emoluments, remuneration, salaries and wages or other benefits of Seller Personnel, and includes any fringe benefits Tax, group Tax, Income Tax, levy, payroll Tax, salary and wage Tax, social security or superannuation contribution or Tax, superannuation surcharge, training levy, withholding or other charge however described.

Recipient has the meaning in the GST Act.

Relevant Matter means:

(a) performance of this Agreement and the Supply of the Goods;

(b) any act or omission of the Seller, its employees or agents preparatory to or in furtherance of the activities in (a); or

(c) any amount paid, payable, received or receivable under this Agreement.

(d) compensation, salaries, wages or other benefits paid or provided to the Seller's personnel, servants or agents or those of any member of the Seller Group, as well as any property or equipment

Seller means Seller as defined in the Goods Purchase Order.

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 this Agreement.

Specifications

(a) any Specifications included or referred to in the GPO, that specifies the quality, functionality, performance, testing or other criteria; and

(b) the Seller's published Specifications for the Goods.

Supply has the meaning in the GST Act.

Tax means any Tax and includes Customs Tax, GST, Income Tax, Personnel Tax including any equivalent successor Tax and in each case as well as any additional Tax, fine, interest or penalty however described.

Tax Invoice has the meaning in the GST Act.

Tax Law means a Law relating to a Tax.

Taxable Supply has the meaning in the GST Act.

Taxing Authority means a Government authority that collects or imposes a Tax or administers a Tax Law.

Tests means all Tests to determine that those Goods comply with the Specifications and **Testing** means the carrying out of the Tests.

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

Warranty Period means 12 Months from the date of delivery of the Goods or such other period as may be specified in the GPO.

Year means a continuous period of 12 Months.

Zero-rated means GST-free.

1.2 Interpretation

Unless the context requires otherwise, in these General Terms & Conditions:

(a) the singular includes the plural and vice versa;

(b) a gender includes the other genders;

(c) 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 shall 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) A reference to dollars, [or $ or AU$] is to an amount in the currency of Australia;

(g) the words "in writing" include any communication sent by letter or facsimile transmission;

(h) a reference to all or any part of a Law includes that Law as amended, consolidated, re-enacted or replaced from time to time;

(i) wherever "include" or any form of that word is used it shall 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 Agreement are as defined in the 2010 edition of INCOTERMS, issued by the Headquarters of the International Chamber of Commerce in Paris, France; and

(l) the provisions on the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) do not apply to this Agreement and expressly excluded in all respects.

2. TERM

This Agreement will take effect on and 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 & Conditions.

3. PACKAGING

3.1 Protection of Goods

The Seller will properly pack and package the Goods in accordance with industry best practice and packages will be fit for purpose and 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 deterioration or damage to the Goods. The Seller will provide all Documentation relating to the Goods (including the packing list which must be included in each box or individual unit of packing).

3.2 Packing Material

(a) Goods required to be shrink-wrapped will be done so using 'Tropical Strength' shrink-wrapping.

(b) All packing material will comply with all relevant statutory requirements and regulations. The Contractor 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 Goods ordered and provide information (such as those required on chemicals), in respect of safety, environmental and health hazards, including:

i. toxicity;

ii. flammability; and

iii. 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 (**MSDS**) 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 AND DELAY

4.1 Free Carrier (FCA)

Unless otherwise specified in this Agreement, the Goods must be delivered FCA to the delivery point nominated by the Company and by the Due Date(s) specified in this Agreement. 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 Delivery Delay

(a) If the Seller becomes aware of an actual or potential delay in meeting the Due Date(s) for delivery set out in this Agreement, the Seller must immediately notify the Company in writing of the potential or actual delay and provide the Company with details of the steps being taken to overcome the delay or a proposed work-around plan.

(b) The Company may (without prejudice to any other right) terminate all or any part of this Agreement 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.

4.3 Liquidated Damages

(a) The Seller agrees that the amount of liquidated damages that will apply in the event of the Seller failing to meet the Due Date(s) will be contained in the Scope of Works.

(b) The Company may deduct the amount of liquidated damages from any amounts the Company owes to the Seller.

(c) The Parties agree and acknowledge that the liquidated damages are an accurate pre-estimate of the Loss which the Company suffers in the event that the Seller does not perform this Agreement in accordance with the Due Date(s).

(d) The Seller's payment of liquidated damages will not relieve the Seller from any other Liability or from performing or complying with that or any other obligation under this Agreement.

5. RISK AND TITLE

5.1 Risk

Subject to clause 5.3, risk of Loss, damage or deterioration of or to the Goods from any cause whatsoever will remain with the Seller's and will not pass to the Company until delivery of the Goods to the delivery point and their acceptance by the Company occur.

5.2 Title

Subject to clause 5.3, title in 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 title in the Goods will pass to the Company as soon as payment is made.

5.3 Title and Defects

Notwithstanding any other provisions of this Agreement, if:

(a) there are any Defects in the Goods;

(b) the Goods are damaged when delivered to the Company,

then title and risk in the Goods will remain with the Seller.

6. PRICES AND PAYMENT

6.1 Subject to the provision of the Goods to the satisfaction of the Company and otherwise in accordance with this Agreement, the Company will pay the Seller the lump sum price as specified in this Agreement (**Fee**).

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 Agreement.

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 specified otherwise in this Agreement, an invoice will be submitted to the Company for payment upon Completion occurring.

6.5 The invoice will include the Agreement's number and will be forwarded together with full 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) will 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 Upon resolution of the disputed items in an invoice, the Seller will issue a revised invoice to the Company specifying the agreed amount to be paid. The Company will pay the agreed amount for that invoice within 30 Days from the date the Parties resolved the dispute.

6.10 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 6.8(b), either Party may invoke the dispute resolution process in clause 11.

6.11 Without limiting the Company's rights under any other provisions of this Agreement, all monies due from the Seller to the Company hereunder, may be deducted by the Company from any monies due or to become due by the Company to the Seller.

6.12 The following documents will 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 Goods will be tested in accordance with the requirements of any Specifications contained in or referred to in this Agreement. Testing (including the costs of testing) is the Seller's responsibility. The test results will 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 will 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 Agreement 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 Agreement.

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 shall 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 Seller Warranties

The Seller warrants and represents to the Company in respect of this Agreement that:

(a) the Seller has full power and authority to execute this Agreement and to perform and observe all of its terms and provisions;

(b) this Agreement 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 Agreement;

(c) the Seller holds all licences or rights required or necessary to lawfully Supply the Goods;

(d) 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;

(e) the Goods are fit for the purpose which the Company discloses to the Seller or for the purpose for which they are commonly provided and are of merchantable and acceptable quality and will be rendered with due care and skill;

(f) the Goods are free from any Defects in design, materials and workmanship;

(g) when supplied to the Company the Goods will be new, not have been used by any person (except with the prior written Agreement of the Company) and will not have been reconditioned or refurbished.

(h) the Goods comply with any sample of the Goods supplied to the Company and will meet the functional and performance criteria set out in the Specifications or this Agreement and otherwise conform with the descriptions with which they are supplied;

(i) 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;

(j) the Supply of the Goods will not be breach of any obligation owed to any person;

(k) the Goods do not infringe any Intellectual Property Rights or any other proprietary rights;

(l) Documentation will be in English, complete, up to date, accurate and suitable for the Company and its Personnel to use, operate or maintain the Goods; and

(m) the Seller will not accept or give any secret commission or benefits of any kind in connection with the Goods.

9.2 Warranties conferred by law

Without limiting the operation of any other provision of these Terms, 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 Rectification of Goods

If at any time during the Warranty Period the Seller becomes aware or the Company notifies to the Seller of any failure of the Goods to comply with any of the warranties contained in Clause 9, the Seller will at its cost promptly correct that failure by replacing the Goods.

9.4 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:

(a) replacement of the Goods or the Supply of equivalent Goods;

(b) repair of the Goods;

(c) payment of the cost of replacing the Goods or of acquiring equivalent Goods; or

(d) payment of the cost of having the Goods repaired.

10. INDEMNITY AND INSURANCE

10.1 The Seller is responsible for and shall Indemnify each member of the Company Group against any and all direct Losses which may arise (whether in contract, tort, under statute or otherwise) from the Seller's performance or failure to perform or delay in performing its obligations under the Agreement.

10.2 The Seller is responsible for and must Indemnify each Company Group from and from and against all Claims and Liabilities in respect of any breach or alleged breach of Intellectual Property Right or other proprietary right in respect of the Goods or other obligations under this Agreement.

10.3 Insurance

(a) The Seller will, during the term of this Agreement, 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 for such 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 Supply of the relevant Goods would effect and maintain.

(b) The Seller shall not insure shipments for the Company's account without the Company's express written instructions.

(c) The taking out of insurance under this Agreement does not relieve the Seller of any of its obligations or liabilities under this Agreement or otherwise at Law.

The insurances referred to in clause 10.3(a)shall:

(i) name the Company Group as an additional insured Party relative to this Agreement;

(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; 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 Agreement is agreed as being a genuine pre-estimate of the Company's Loss.

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.

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 Agreement 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 Goods when written directions to do so are received by 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 Agreement for a continuous period of ten (10) Days or more, the Company may at any time thereafter terminate this Agreement 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 Agreement 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 Agreement or at Law, the Company may terminate this Agreement if:

i. the Seller fails to deliver the Goods to the delivery point by the delivery date(s); or

ii. the Seller fails to complete the Services by the required Completion date; or

iii. the Seller fails to ensure that Completion occurs by the required Completion date; or

iv. the Seller breaches any other of its material obligations under this Agreement 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

v. an Insolvency Event occurs in respect of the Seller.

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

12.5 Termination payment

(a) If the Company suspends this Agreement 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 Agreement 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 Agreement together with all reasonable costs and expenses incurred by the Seller in connection with such suspension.

(c) If the Company suspends this Agreement 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 Agreement will be suspended until this Agreement resumes operation.

(d) If the Company terminates this Agreement 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 Agreement pursuant to clauses 12.3, the Company must pay the Seller the full amount as specified in this Agreement together with all reasonable costs and expenses incurred by the Seller in connection with such termination.

(f) If the Company terminates this Agreement 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 Agreement 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 Agreement will not affect clauses 6.7, 9, 10, 11, 14, 15 and 17.9 or any other provisions of this Agreement 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 Agreement 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 Agreement 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 Agreement; and

ii. perform that Party's obligations under this Agreement 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

(a) Except as expressly provided otherwise in this Agreement, the Seller will be liable for and pay when due any and all Tax on account of, or resulting from, a Relevant Matter.

(b) The Seller will defend and Indemnify every member of the Company Group from and against any and all Claims for Tax on account of, or resulting from, a Relevant Matter, including any arising from the Seller's actions or omissions as well as any Tax imposed as a consequence of receiving payment under this indemnity.

(c) The Company may deduct from money due to the Seller any such amount the Company is required by Law to pay on the Seller's behalf. Payment of an amount so deducted to the Government or authority entitled thereto will be deemed payment duly made to the Seller.

14.2 Compliance with laws and maintenance of tax records

(a) The Seller will comply on a timely basis with each applicable Tax Law including filing all registrations, submitting all Tax returns, and taking all actions necessary to make its Tax payments. The Seller will provide written proof of all registrations required by this clause on a timely basis if requested by the Company.

(b) The Seller will maintain sufficient records to substantiate any Tax, customs and import duty, charge or Fee, indemnity or other payment which may affect the Company's obligations and which are the responsibility of or reimbursed to the Seller under this Agreement.

(c) The Seller will provide at the Company's request and in the format reasonably required by the Company all schedules, summaries or other data available to the Seller or its subcontractors required by the Company to prepare any Tax return, refund, Claim or credit or for use in any audit in connection with this Agreement.

14.3 GST and similar taxes

(a) Except as expressly provided otherwise in this Agreement, where GST is or becomes payable on or in respect of a Taxable Supply made under this Agreement, the consideration for that Supply will be considered exclusive of GST and the supplier may recover from the Recipient an additional amount equal to the consideration multiplied by the rate of GST, provided that at or before the time of payment the supplier will provide to the Recipient a valid Tax Invoice, Adjustment Note (if applicable) or other document in respect of the Supply or adjustment event.

(b) Notwithstanding the generality of paragraph 14.3(a), GST will not be paid or payable where a Supply is GST-free or Zero-rated according to the Law of the applicable jurisdiction. The Supplier will diligently Claim entitlement to any exemption, concession or reduction of GST otherwise payable.

(c) GST payable if any will be separately itemised or identified on the Tax Invoice, collected by the Supplier and paid over to the Government or Taxing Authority entitled thereto in accordance with the Law of the appropriate jurisdiction.

(d) Where an amount of GST in paragraph 14.4(a) payable in Australia is expressed in a currency other than Australian dollars that amount will be translated to Australian dollars in a manner approved by the Commissioner and the translation rate or translated amount will be specified in the Tax Invoice provide to the Recipient.

(e) Where any amount, consideration, price or payment under this Agreement is determined by reference to a cost or Liability incurred by a Party (reimbursable expense) that amount, consideration, price or payment will be the actual amount incurred by such Party less the amount of any GST Input Tax Credit which such Party, an agent, related entity, representative, group member or joint venture operator is entitled in respect of that cost or Liability. The relevant Party or other entity will diligently Claim such entitlement.

(f) A term or word relating to GST not separately defined elsewhere herein will have the meaning set out in the GST Act.

14.4 Withholding

(a) The Company will not be liable to the Seller for any sum otherwise payable to the Seller which the Company has withheld from payment or paid to the Taxing Authority entitled thereto in accordance with any Law or regulation imposed by a Government or applicable authority. Payment of an amount so withheld to the Government or Taxing Authority entitled thereto will be deemed payment duly made to the Seller. Production of any notice of payment, remittance advice or receipt or any duplicate or facsimile thereof will be conclusive proof of such payment as between Company and the Seller.

(b) The Seller will obtain from the applicable Government or Taxing Authority any receipt for or annual assessment of payment of Tax under this clause 14.4.

(c) The Seller will defend, Indemnify and hold harmless the Company from and against any fine, penalty, interest and similar charge which may be attributed to, be imposed on or asserted against the Company by reason of a failure or an alleged failure of the Seller to comply fully with the withholding Tax requirements of a Law.

(d) The Seller will withhold, pay and report to the applicable Taxing Authority any Tax required by an applicable Law to be withheld or paid by, for or on account of subcontractors.

14.5 Customs Tax

(a) Imports

i. The Seller will import all items (**Items**) which are not already in the applicable jurisdiction and which it is required to furnish for its performance of this Agreement subject to all provisions which grant the Seller an exemption from or reduction of any local customs duty, import and export Tax or other charge on such items (collectively and individually referred to as **Exemption**). The Seller will not perform or omit any act which is prejudicial to such exemption. The Seller will be responsible for obtaining permits and licenses and clearing customs for such items. All other charges related to routine port clearances such as pilotage, agent Fees, handling charges and port dues will be for the Seller's account. All temporary export bonds will be administered by and at the sole cost of the Seller.

ii. For the purposes of this clause 14.5, Items includes:

A. Seller equipment, including associated consumables;
B. materials, equipment, consumables, spare parts, construction equipment or anything else necessary to effect rework, repairs or replacements under warranty or guarantee or due to any act, omission or default of any member of the Seller Group and during the Warranty Period; and
C. personal effects of Seller Personnel.

(b) Exemptions and refunds

i. The Seller will apply for all exemptions or refunds of Customs Tax for which it is entitled to Claim reimbursement from the relevant Taxing Authority and will apply for all rebates and remissions to which it is, or may become, entitled. If any such duties or charges were paid, borne or reimbursed by the Company, upon receipt of a refund, credit or setoff, the Seller will immediately reimburse the Company accordingly for the full amount of such refund, credit or setoff.

ii. The Seller will pay all costs, Fees, charges or expenses relating to or resulting from obtaining exemptions, rebates, refunds, credits or setoffs or other privileges.

(c) Reimbursement

Where an Exemption is not available, through no fault of the Seller, then the Company will reimburse the Seller for the actual documented cost of any Customs Tax other than GST for the Items which are paid by the Seller to a duly authorised representative of the relevant Taxing Authority having jurisdiction over this Agreement provided the Company has approved such costs in advance and payment of such costs by the Seller is substantiated with each invoice.

(d) Re-export of Seller Equipment and Materials

If the Exemption for the Items includes the obligation to re-export, the Seller will diligently comply with such obligation.

(e) Export licences

The Seller will obtain all required export licences from the country or export and/or country of origin of equipment, materials, supplies and technical data exported by the Seller.

(f) Indemnification

If the Seller's action or failure to diligently act pursuant to this clause 14.5 results in the Company not receiving the full benefit of or otherwise prejudices any available Exemption, or results in failure to obtain the required customs clearance or import/export licences, the Seller will reimburse the Company for and Indemnify the Company against any Loss arising out of such action or failure to act, as well as any Tax imposed on the Company as a consequence of such reimbursement and indemnification.

Oil Search

14.6 Concessions and Exemptions

(a) Subject to all applicable Laws and regulations the Seller will cooperate with the Company to correctly report the amount of any applicable Tax and the Seller will not take any action prejudicial to obtaining an available Tax concession, exemption, reduction or saving.

(b) Where the Seller is entitled to Claim a Tax concession, exemption, reduction or saving that may affect any obligations of the Company, the Seller will promptly notify the Company and provide Company with any exemption Documentation reasonably required by the Company.

14.7 Protest Rights

(a) The Seller will promptly and timely notify the Company of any threatened, pending or actual assessment of GST or similar Tax, excise or similar Tax, or any customs and import duties or other Tax for which the Seller may seek reimbursement from the Company.

(b) For the purposes of this clause 14.7 'promptly and timely' means advanced notice so that the Company has sufficient time and reasonable opportunity to appeal, object, protest or litigate the pending or actual assessment in an appropriate venue. At the Company's request and cost, the Seller will immediately initiate any appeal, objection, protest or litigation in the Seller's own name where the Seller is the only Party that can initiate such action. The Seller will cooperate and assist the Company in relation to any requested action.

(c) To the extent that the Seller fails to give prompt and timely notice for any cause, the Company has no obligation to, and will not, reimburse the Seller for that Tax customs and import duty and other Tax, or cost.

15. CONFIDENTIALITY

15.1 Except as provided below, all information provided by the Company to the Seller, in connection with this Agreement, including, but not limited to any information with respect to the Company's operations is confidential, and the Seller will 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 Agreement.

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

16. CORRUPT PAYMENTS

The Contractor must:

(a) at all times comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and improper payments including but not limited to the Criminal Code Act 1995 (Cth) (Australia), the Criminal Code Act 1974 (Papua New Guinea) and the Bribery Act 2010 (United Kingdom) (*Relevant Requirements*); and

(b) have and maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Relevant Requirements, to ensure compliance with the Relevant Requirements, and enforce them where appropriate.

17. GENERAL PROVISIONS

17.1 Relationship of the Parties

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

17.2 Time of the essence

In this Agreement, time is of the essence as it relates to the obligations or Agreements of the Seller unless otherwise stipulated.

17.3 Entire understanding

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

(b) Each Party acknowledges that, except as expressly stated in this Agreement, 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 Agreement.

17.4 No Adverse Construction

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

17.5 Advertising, Publicity and Unauthorised Use of Company's Name

The Seller shall not without the Company's prior and express written consent make any statement nor publish or release to any other person any photograph, advertisement, testimonial, letter of commendation or approval, or any other document or written matter which might imply the Company's approval of the products, services, actions or performance of the Seller including information on any contract award made by the Company to the Seller.

17.6 No Waiver

(a) A failure, delay, relaxation or indulgence by a Party in exercising any power or right conferred on the Party by this Agreement 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 Agreement.

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

17.7 Severability

Any provision of this Agreement which is invalid in any jurisdiction shall 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 Agreement in other case,

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

17.8 No variation

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

17.9 Governing Law and Jurisdiction

(a) This Agreement is governed by and shall be construed in accordance with the Laws in force in the State of New South Wales.

(b) The Parties submit to the non-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 Agreement, its performance or subject matter.

17.10 Order of precedence and conflict in documents

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

17.11 Assignment

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

(b) The Company has at all times the right to assign in whole or in part its right and obligations under this Agreement 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.

17.12 Subcontracting

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

(b) Notwithstanding the Company's consent and approval under clause 17.12(a) no subcontract will relieve the Seller from any of its obligations or liabilities under this Agreement 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.

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

17.13 Electronic Signatures

The Seller consents to the use of Electronic Signatures in the execution of this Agreement by the Company, and any other related documents requiring a signature. The Seller agrees not to object to the admissibility of this Agreement on the grounds that it is in the form of a paper copy of a document bearing an Electronic Signature, or that it is not in its original form or is not an original.

17.14 Non-exclusivity

Notwithstanding any term in this Agreement, the Company reserves the right to enter into any negotiations, arrangements or Agreements with any person and entity (other than the Seller) for the purchase or Supply of the same or similar Goods to the Goods contained or referred to in this Agreement without being liable to Seller in any way whatsoever. For the avoidance of doubt this Agreement does not create an exclusive relationship between the Seller and the Company.