
STANDARD TERMS AND CONDITIONS

1. Application of these Conditions**1.1 Definitions**

Capitalised terms used in these Conditions have the meanings given to them in clause 17.11 unless otherwise stated.

1.2 Goods and Services covered

These Conditions apply to all arrangements for the supply of Goods or Services by the Supplier to the Principal, unless the Principal and Supplier have entered into a separate written contract covering that supply (for example by entering into contract terms provided as part of a request for tender or entering into a formal supply or services agreement).

1.3 Creation of Contract

- (a) The issue of a Purchase Order by the Principal and actual or implied acceptance by the Supplier (which may be given in writing or by commencing performance) is conclusive evidence that these Conditions apply to the provision of the Goods and the Services.
- (b) Upon such acceptance of any Purchase Order, a separate contract is formed comprising the documents referred to in clause 1.4 (**Contract**).

1.4 Contract documents

The Contract contains the entire agreement between the parties for the supply of the Goods and Services and comprises:

- (a) the Purchase Order;
- (b) any written quote, rates or specifications provided by the Supplier to the Principal in connection with the Purchase Order which have been agreed between the Supplier and the Principal; and
- (c) these Conditions,

but does not include the Excluded Terms.

1.5 Inconsistency

If there is any inconsistency between any of the documents forming part of the Contract, the documents forming the Contract will be interpreted in the descending order of priority of documents referred to in clause 1.4, followed by any other terms which the Principal and the Supplier have agreed in writing are included in the Contract.

2. Primary obligations

- (a) The Supplier agrees to supply the Goods and Services in consideration of the Principal paying the Contract Price as and when required by the Contract.
- (b) The Supplier must ensure the Services are performed with due care and skill and must undertake best endeavours to ensure that it complies with the Legislative Requirements and Good Australian Oilfield Practice.

3. Supply of Goods**3.1 Sale, delivery and installation**

Unless otherwise stated in the Contract, the Supplier must:

- (a) sell the Goods to the Principal;
- (b) deliver the Goods to the Principal on a DDP basis (or such other delivery terms stated in the Contract);
- (c) unload the Goods and where the Principal carries out that unloading, it is carried out on behalf of the Principal and is at the Principal's risk; and
- (d) install the Goods as reasonably directed by the Principal.

3.2 Testing, acceptance and rejection

- (a) The Principal may test the Goods as it sees fit:
 - (1) before delivery to the Principal, whether at the Supplier's premises or elsewhere; and
 - (2) after the Goods have been delivered and installed in accordance with the Contract.
- (b) If the Principal is not satisfied that the Goods comply with the Contract, the Principal may reject the Goods by written notice to the Supplier.
- (c) If the Principal does not deliver a written notice to the Supplier in accordance with clause 3.2(b) within five (5) Business Days of the completion of its testing pursuant to clause 3.2(a), then the Principal will be deemed to have accepted the Goods.

4. Site access and risk**4.1 Non-exclusive access**

- (a) The Supplier acknowledges and agrees that, except to the extent expressly stated otherwise in the Contract:
 - (1) it is not entitled to exclusive access to the Site or Delivery Place during the performance of its obligations under the Contract; and
 - (2) the Supplier must not obstruct the Principal or any of its Personnel from accessing the Goods or any place where the Goods are being prepared or stored or Services are being performed.
- (b) The Principal must use reasonable endeavours to ensure that the Supplier is not impeded by the Principal or any other person on the Site or at the Delivery Place in the supply of the Goods and the performance of the Services.

4.2 Site risk

The Principal is responsible for ensuring that the Delivery Place and all other places accessed by the Supplier or its Personnel in performing the Contract are suitable for the Goods and Services.

5. Delays

The Supplier must give the Principal written notice as soon as practicable upon becoming aware that it is not able to perform its obligations by the time required by the Contract.

6. Payment**6.1 Contract Price**

- (a) The Contract Price is inclusive of all costs, expenses, fees, duties, excises, imposts, levies and taxes (other than GST) incurred by the Supplier in performing the Contract.
- (b) The Supplier will, promptly upon request, provide the Principal with a detailed breakdown of each cost item included in the Contract Price.

6.2 Currency

Except to the extent expressly agreed otherwise by the Principal:

- (a) all payments under the Contract are to be made in Australian dollars; and
- (b) to the extent the parties have agreed a payment will be made in any currency other than Australian dollars, the Principal bears the risk of foreign exchange rate fluctuations on and after the date of the Contract and is not entitled to demand payment of a higher amount due to any such fluctuations.

6.3 Invoicing

- (a) The Supplier will render tax invoices to the Principal in respect of the Contract Price payable by the Principal at the times stated in the Contract or, if no such times are stated by the end of the month immediately following the month in which Goods or Services are supplied.
- (b) Each invoice must:
 - (1) note the Purchase Order number;
 - (2) specify the total amount payable in respect of the Goods or Services supplied or milestone to which the invoice relates; and
 - (3) be paid within 14 days of the issue date.
- (c) Where applicable, the Supplier invoices will be considered payment claims under the relevant Security of Payment Act under the laws of the State in which the Services are provided.

6.4 Payment

- (a) Unless otherwise stated in the Contract, the Principal will pay each validly rendered invoice within 14 days of the date the invoice was issued by the Supplier.
- (b) Payment shall constitute acceptance by the Principal that Goods or Services comply with the Contract.
- (c) Unpaid invoices will attract interest at the Cash Rate Target at the time plus an additional 6% per annum. Interest will be calculated daily and will be compounded monthly. Interest accrues daily from and including the due date for payment up to, but excluding, the actual date of payment.

7. Direct Engagement

- (a) Subject to clause 7(c), for the duration of the Contract and for a period of six months after the expiration or earlier termination of the Contract, the Principal must not, except as provided for in the Contract, and must procure that none of its Related Entities, directly or indirectly:
 - (1) enter into any agreement, arrangement or understanding with;
 - (2) solicit, engage or attempt to engage (or re-engage) with, or otherwise approach; or
 - (3) otherwise procure the services or do business with,

any of the Supplier's Personnel or any of their respective Associates, whether as employee, agent, contractor, subcontractor, servant or otherwise, without the involvement and prior written approval of the Supplier.

- (b) In the event that the Principal becomes aware that a Related Entity has done any of the things referred to in clause 7(a), the Principal must immediately give written notice of that fact to the Supplier.
- (c) Notwithstanding clause 7(a), the Principal may engage the Supplier's Personnel or any of their respective Associates provided that the Principal has first paid to the Supplier the Direct Engagement Fee, which the Principal irrevocably agrees is fair and reasonable compensation for the lost revenue that the Supplier would have received.

8. Title and risk

- (a) Unless otherwise stated in the Contract, title in the Goods will pass to the Principal on the date that the payment is received by the Supplier.
- (b) Risk in Goods passes to the Principal when the Goods are delivered to the Delivery Place.

9. Variations

- (a) The Principal may request a Variation at any time.
- (b) If a Variation is accepted by the Supplier, any resulting adjustment to the Contract Price and any extension of time which the Supplier claims (if any) must be expressly agreed in writing by the Principal.

10. General warranties

Each party warrants and represents to the other party that:

- (a) it has the capacity, authority and power to enter into and perform its obligations under the Contract and sufficient financial, technical and other resources (as applicable) to perform its obligations under the Contract; and
- (b) it has not suffered an Insolvency Event.

11. Intellectual property

- (a) The parties each retain ownership of their respective Intellectual Property Rights which

arose prior to, or independently of, the Contract (**Existing IP Rights**).

- (b) All Intellectual Property Rights in the Contract Material and any other Intellectual Property Rights created in the performance of the Contract will vest in the Supplier immediately upon creation.
- (c) To the extent that any rights in the Intellectual Property Rights in the Contract Materials do not vest in the Supplier on creation, the Principal assigns to the Supplier all of its rights, title, interests and full legal ownership of the Intellectual Property Rights in the Contract Materials and/or created in the performance of the Contract. The Principal is not entitled to an assignment fee or similar payment.
- (d) The Supplier grants the Principal a non-exclusive, perpetual, irrevocable, non-transferrable, royalty-free licence (including the right to sub-licence) to deal with its Existing IP Rights and the Intellectual Property Rights in the Contract Materials to the extent necessary for the Principal to have the full use and benefit of the Goods and Services.

12. Confidentiality

- (a) Subject to clause 12(b), each party must not disclose Confidential Information of the other party without the prior written consent of the other party.
- (b) Confidential Information of the other party may be disclosed if:
 - (1) at the time of disclosure, it is in the public domain, but not as a result of a breach of this clause 12 or some other obligation of confidentiality;
 - (2) required to be disclosed for the purposes of performing its obligations or enforcing its rights under the Contract;
 - (3) disclosed to professional advisors, bankers, investors or financial advisors on a confidential basis;
 - (4) required by an Authority, Legislative Requirement, court order or listing rules of the Australian Stock Exchange;
 - (5) required in order to comply with any direction of an Authority; or
 - (6) required to be made in relation to any procedure for discovery of documents and any proceedings before any court, tribunal or regulatory body.
- (c) If the Supplier requires disclosure of Confidential Information of the Principal to be made to its subcontractors for the purposes of performing its obligations under the Contract, the Supplier must procure confidentiality undertakings (on terms no less onerous than this Contract) from its subcontractors in relation to that disclosure prior to making such disclosure.

13. Compliance

13.1 General compliance

Without limiting any other provision in the Contract, the Supplier must comply with all relevant laws and Authorisations in performing the Contract.

13.2 Work health and safety

- (a) The Supplier must have in place and maintain a safe system of work for the provision of the Goods and Services and have and maintain all certificates, licenses and approvals required by law, Good Australian Oilfield Practice and Codes of Practice specified under the *Work Health and Safety Act 2011* (Cth), the Safety Act and their respective related regulations and legislative instruments.
- (b) The Supplier must comply with any directions given by the principal contractor as required under the *Work Health and Safety Act 2011* (Cth) and the Safety Act and their respective related regulations and legislative instruments in relation to the supply of the Goods and the provision of the Services.
- (c) The Supplier must promptly report to the Principal, in writing, details of any accident that occurs in relation to the Supplier or the Supplier's Personnel or the Principal's Personnel whilst the Supplier is performing the Services at one of the Principal's Sites.

13.3 Environmental obligations

The Supplier must, in carrying out its obligations under the Contract, comply with all applicable environmental laws and perform its obligations in an environmentally sensitive manner that does not and is not likely to degrade the quality of the environment.

14. Breach and termination

14.1 Termination

- (a) Either party may terminate the Contract at any time by giving written notice to the other party of not less than the time stipulated in Item 12 of the relevant Purchase Order.
- (b) The Contract may be terminated by either party
 - (1) on 7 days' written notice to the other party, if the other party breaches an essential term of the Contract, including, in the Principal's case, a breach of clause 6.4(a), which:
 - (A) is incapable of remedy; or
 - (B) if capable of remedy, is not remedied within 7 days of the other party receiving written notice requiring the breach to be remedied; and
 - (2) immediately upon notice to the other party, if the other party suffers an Insolvency Event.
- (c) For the purpose of the Contract the parties acknowledge and agree that failure by the Principal to pay the Contract Price, in full, as and when due shall constitute a breach of an essential term.

- (d) The termination or expiration of the Contract, however caused:
 - (1) is without prejudice to any rights or obligations of the parties which have accrued prior to that termination or expiration (as applicable); and
 - (2) shall not affect clauses 11(a), 12, 14 and 16 which shall survive such termination or expiry.

14.2 Release

- (a) Subject to clauses 14.3, 14.5, 14.5(b) and 14.5(c), the Supplier shall be responsible for, and shall release, save, indemnify and hold harmless each member of the Principal Group from and against all Claims which may be made against the Principal Group arising out of:

- (1) the illness, injury or death of any member of the Supplier Group; or
- (2) the loss, destruction, or damage to any of the Supplier's Equipment;
- (3) a breach by any member of the Supplier Group of any Legislative Requirement,

except to the extent that such illness, injury, death, loss, destruction, damage or breach is caused or contributed to by the Principal Group's fraud, criminal acts, negligence, breach of duty or breach of this Contract.

- (b) The Principal shall be responsible for, and shall release, save, indemnify and hold harmless each member of the Supplier Group from and against all Claims which may be made against the Supplier Group regardless of cause or negligence (sole or concurrent) arising out of:

- (1) the illness, injury, or death of any member of Principal Group; or
- (2) the loss, destruction, or damage to any of the Principal's Equipment; or
- (3) a breach by any member of the Principal Group of any Legislative Requirement,

except to the extent that such illness, injury, death, loss, destruction damage or breach is caused or contributed to by the Supplier Group's fraud, criminal acts, negligence, breach of duty or breach of this Contract.

- (c) The Principal shall be responsible for, and shall release, save, indemnify and hold harmless the Supplier Group from and against all Claims which may be made against the Supplier Group in respect of any illness, injury to or death of Third Party Personnel, or loss of, destruction or damage to Third Party property, except to the extent that such injury, death, loss or damage is caused or contributed to by an act or omission of the Supplier.

- 14.3 The Principal shall be responsible for, and shall release, save, indemnify and hold harmless the Supplier Group against the following:

- (a) any Claim against the Supplier Group in respect of any personal injury, death or property damage (other than personal injury or death of any of the

Supplier's Personnel or damage to the Supplier Equipment) that arises from a Blowout Well;

- (b) any other costs incurred by the Supplier in providing Services to kill or bring under control any Blowout or any Well that are not provided for in clause 14.3(a) (other than damage to property, materials or equipment owned, hired, leased, chartered or otherwise belonging to or provided by the Supplier) and for the cost of removal of debris caused by a Blowout; and

- (c) any Claim against the Supplier Group (other than a Claim in respect of personal injury or death of any of the Supplier's Personnel) in respect of radioactivity, including radiation from naturally occurring radioactive materials, and the clean up and control of same,

except to the extent such Claim, Loss or damage is caused by the Gross Negligence or Wilful Misconduct of the Supplier Group.

- 14.4 The Principal shall be responsible for, and shall release, save, indemnify and hold harmless the Supplier Group from and against all Claims which may be made against the Supplier Group in respect of:

- (a) any Well;
- (b) injury to, destruction of, or loss or impairment of any property right in or to oil, gas, water or other substance, if at the time of the act or omission causing such injury, destruction, loss or impairment, such oil, gas, water or other substance had not been reduced to physical possession above the surface; or
- (c) any loss or damage to any formation, strata or reservoir beneath the surface or the Well,

except to the extent that such injury, destruction, loss, impairment or damage is caused by the Gross Negligence or Wilful Misconduct of the Supplier Group.

- 14.5 The Principal shall be responsible for, and shall release, save, indemnify and hold harmless the Supplier Group from and against all Claims which may be made against the Supplier Group in respect of:

- (a) the loss of or damage to any of the Supplier's Equipment where any such Supplier Equipment is in use Down Hole or is under the custody or control of the Principal;
- (b) damage to, or destruction of, the Supplier's Equipment caused by exposure to unusually corrosive, abrasive or otherwise destructive elements including those which are introduced into the drilling/completion fluid(s) from subsurface formations or the use of corrosive additives in the fluid; or
- (c) damage to the Supplier's Equipment including but not limited to the draw work, caused or contributed to by operations outside the original equipment manufacturer's specification limits.

- 14.6 The Principal shall be responsible for and save, indemnify and hold harmless the Supplier from and against all Claims regardless of cause (sole or concurrent) which may be made against the Supplier

Group in respect of, and to the extent that, any pollution or contamination is caused by:

- (a) substances originating from beneath the work floor of the Rig, in the course of performing the Services;
- (b) spills emanating from any of the Principal's Equipment;
- (c) a fire at a Well, a Blowout, cratering at the Well Site, seepage of sub-surface origin, or uncontrolled Well flow including the cost of containment, clean-up and disposal associated with the incident in accordance with applicable Legislative Requirements, except to the extent such pollution or contamination is caused by the Gross Negligence or Wilful Misconduct of the Supplier Group;
- (d) the property of Supplier Group whilst in the care, custody or control of the Principal Group; or
- (e) the Gross Negligence or Wilful Misconduct of the Principal Group.

14.7 Liability cap

The aggregate Liability of a party under this Contract is limited to the lesser of \$1,000,000 and the Contract Price for the 6 month period immediately prior to the date that Liability arose, other than in respect of:

- (a) events or circumstances in respect of which insurance proceeds are available to cover that Liability, and amounts so received will not be included when calculating whether the limit above has been reached; or
- (b) any Claims caused or contributed to by the fraud, criminal acts or negligence of a party or its Personnel.

14.8 Excluded Loss

Neither party will be liable to the other party for any Excluded Loss suffered or incurred by the other party in connection with the Contract.

15. Contracting

15.1 Sub-contracting

The Supplier may sub-contract the performance of any matter or thing required by the Contract without the prior written consent of the Principal.

15.2 Assignment

Either party may transfer or assign the Contract, provided that:

- (a) the transferee or assignee has at least the same (or greater) financial capacity and technical capability to satisfy that party's obligations in respect of the Contract; and
- (b) the transferee or assignee has signed a deed of assignment and assumption pursuant to which it agrees to be bound by that party's obligations in the Contract.

16. PPSA

16.1 Definitions

In this clause 16, words and phrases that have defined meanings in the *Personal Property Securities Act 2009*

(Cth) (**PPSA**) have the same meaning as in the PPSA unless the context indicates otherwise and a reference to a section shall be a reference to a section in the PPSA.

16.2 Grant of Security

16.3 As security for the performance of its obligations under the Contract, including the payment of the amount of its indebtedness to the Supplier from time to time, the Principal grants to the Supplier a security interest in all of its present and after-acquired personal property (as defined in the PPSA), including anything in respect of which the Principal has at any time a sufficient right, interest or power to grant a security interest.

16.4 The Principal consents to the Supplier making registrations on the Personal Property Securities Register (in any manner that the Supplier deems appropriate) in relation to any security interest arising under or in connection with or contemplated by the Contract.

16.5 The Supplier may apply to register a security interest in any Goods at any time if the Principal has not paid for those Goods in full, including before or after delivery. The Principal waives its right under section 157 of the PPSA to receive notice of any notice of the registration. The Principal agrees that it will, if requested by the Supplier, sign any documents, provide any information or do anything else that the Supplier requests, to ensure that any security interest granted to the Supplier pursuant to the Contract is, to the fullest extent possible under the PPSA, perfected in accordance with the PPSA.

16.6 The Principal agrees to reimburse, upon demand, the Supplier for all costs and/or expenses incurred or payable by the Supplier in relation to registering or releasing the registration of any security interest granted to the Supplier pursuant to the Contract. Unless the Principal has obtained the Supplier's prior written consent, the Principal undertakes not to create or purport to create any security interest in the Goods, nor register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party.

16.7 Exclusion

The parties agree that, to the extent permitted by section 115(1) of the PPSA, sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA are excluded. Each party agrees that it will not disclose information of the kind referred to section 275(1) of the PPSA and that this clause constitutes a confidentiality agreement for the purposes of section 275(6)(a) of the PPSA and other provisions of the PPSA.

17. Miscellaneous

17.1 Notices

- (a) Notices required or permitted to be given under the Contract must be sent in writing by ordinary prepaid post or electronic mail to the address of the intended recipient set out on the front of the Purchase Order.
- (b) Notices given in accordance with this clause will be deemed given when in the ordinary course of post such notice should have been delivered.

17.2 Goods and Services Tax

- (a) The Contract Price (and any other amounts payable for Goods or Services) is fixed, subject to clause 6.1, and exclusive of any goods and services tax (or other similar tax or impost) payable. The Principal must pay to the Supplier goods and services tax in addition to the Contract Price in respect of the Contract.
- (b) The Supplier must be registered and must provide its Australian Business Number and tax invoices promptly in accordance with the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

17.3 No waiver

A party has not waived any breach of the Contract unless and until it has provided a specific waiver in writing. A waiver only applies to past breaches unless specifically stated otherwise.

17.4 Variation

- (a) The Supplier may vary the Conditions at any time by providing the Principal with not less than 30 days' prior written notice of such variation.
- (b) A variation to the Conditions in accordance with clause 17.4(a) shall not apply to Purchase Orders issued prior to the date of that variation.
- (c) The Principal acknowledges and agrees that it will be deemed to have received and to have seen, read and understood, any variation of the Conditions on the earlier of:
 - (1) the date that the Supplier provide a copy of the varied Contract to the Principal by email; and
 - (2) where the Principal has not provided an email address or any changes to its email address, the date that a copy of the varied Contract is uploaded to the Website.

17.5 Amendment

No amendment of, nor addition to, the Purchase Order is binding unless it is in writing and executed by the parties to the Contract.

17.6 Vienna Convention

The 1986 United Nations Convention on Contracts for the International Sale of Goods adopted at Vienna, Austria on 10 April 1980 and opened for signature and also for accession on 11 April 1980 and any Act or other law which gives effect to this convention does not apply to the Contract.

17.7 Severance

If any provision of the Contract is void, unenforceable or illegal, it must be read down to the extent necessary for it to be valid and enforceable. If it cannot be read down, the provision must be severed but only to the extent necessary for the Contract to be valid and enforceable.

17.8 Governing law

The Contract is governed by the laws of the State and the parties irrevocably consent to the non-exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with the Contract.

17.9 Costs

Unless otherwise stated in the Contract, each party bears its own costs of negotiating, preparing and performing its obligations under the Contract.

17.10 Further acts

The parties will do all things and execute all documents required to permit or facilitate the performance of the transactions contemplated by the Contract.

17.11 Defined terms

In these Conditions, unless a contrary intention is apparent:

Associate has the meaning given in the *Corporations Act 2001* (Cth).

Authorisation means any approval, declaration, authorisation, certificate, consent, exemption, filing, licence, notarisation, permit, registration, ruling, statutorily required policy of insurance or waiver (and any renewal or variation of any of them) by or with an Authority;

Authority means:

- (a) any government or regulatory department, body, instrumentality, minister, agency or other authority; or
- (b) any other person exercising an authority granted to it under an applicable law;

Blowout means any uncontrolled flow from a Well of drilling fluid, oil, gas or water which cannot be promptly controlled, and which is or is likely to become a hazard to the Personnel or equipment located at the Well Site or some other loss of Well control;

Business Day means a day other than a Saturday or Sunday or a day that is partly or wholly observed as a public holiday in the State;

Cash Rate Target means for a given date, the cash rate target set by the Reserve Bank of Australia and displayed on that date on the website of the Reserve Bank of Australia (or its successor);

Claim includes all existing or potential actions, causes of action, suits, rights, claims, Liabilities, expenses, Losses, payments, proceedings, damages, liens, and demands of any nature including without limitation any claim for costs (including recoverable legal counsel fees and costs of litigation of the party asserting the claim), interest or indemnity, whenever and however arising, known or unknown, which relate to or arise from the Contract, the performance or failure to perform any obligations under or in connection with this Contract or any dispute between the parties arising out of or in respect of this Contract whether arising by law, contract, tort, voluntary settlement or otherwise;

Conditions means these Standard Terms and Conditions for the Procurement of Goods and Services;

Confidential Information means any information which is by its nature confidential or commercially sensitive and includes all technical, proprietary and operational information, drawings, techniques, processes, know-how, methods of working, data and specifications, trade secrets, customer information and other commercially valuable information of any kind, and the terms of the Contract;

Contract means the contract between the Principal and the Supplier for the supply of the relevant Goods and Services referred to in clause 1.3;

Contract Material means those documents and materials created or required to be created under the Contract and to be handed over to the Principal;

Contract Price means the total amount payable by the Principal for the supply of all Goods and the performance of all Services under the Contract, being either:

- (a) the fixed lump sum amount set out in the Contract; or
- (b) the total fees, charges and disbursements of the Supplier in performing the Contract calculated at the agreed rates or on the agreed basis set out in the Contract;

Delivered Duty Paid or DDP means:

- (a) in the case of Goods to be imported by the Supplier, that term as defined by the International Chamber of Commerce Incoterms (2020 Release); and
- (b) in the case of Goods not so imported, means delivery to the Delivery Place in all respects at the Supplier's cost;

Delivery Place means the place for delivery of the Goods or Services (as applicable);

Direct Engagement Fee means the amount referred to in the Purchase Order;

Drillstring includes the drill pipe, drill collars, substitutes, drilling tools, crossovers and all other equipment reasonably necessary for the conduct of the Services, and in the case of a workover, includes the workstring;

Down Hole means in the well bore, as well as inside casing, tubing or riser below the work floor of the rig or casing or tubing or riser otherwise connected to the Well bore;

Excluded Loss means:

- (a) any loss of business or production and any loss of actual or anticipated profit or revenue; and
- (b) any loss or damage arising out of petroleum reservoir or formation damage;

Excluded Terms means:

- (a) any standard terms and conditions of supply provided or referred to by the Principal; and
- (b) any purported variations to these Conditions, unless the Supplier has agreed in writing that those terms prevail over these Conditions;

Good Australian Oilfield Practice means recognised oil and gas field methods, procedures and practices consistent with applicable Legislative Requirements, together with the exercise of that degree of skill, diligence, prudence and foresight that reasonably would be expected from an experienced and competent contractor in Australia under comparable conditions to the relevant activity in the light of known facts, or facts which should reasonably have been known at the time, and having regard to the need for:

- (a) suitable and experienced personnel and adequate materials;
- (b) ongoing monitoring and testing of plant and equipment performance, safe operating procedures and appropriate maintenance procedures;
- (c) the observance of relevant Australian and international standards; and
- (d) in the case of design, engineering and construction, internationally accepted design, engineering and construction practices that reasonably would be expected from recognised designers, engineers and constructors of comparable plant, equipment and facilities in Australia;

Goods means:

- (a) the goods referred to on the front of the Purchase Order;
- (b) any other goods expressly or impliedly agreed to be supplied to the Principal by the Supplier in connection with the Purchase Order; and
- (c) any other goods supplied to the Principal by the Supplier, to the extent these Conditions apply to the supply of those goods;

Gross Negligence means any act or omission done or omitted to be done by a party, that is not merely reckless, careless or a breach of duty of care, but rather which constitutes such an entire lack of care as to indicate a conscious indifference and reckless disregard for the avoidable and reasonably foreseeable harmful consequences thereof that affect the property, rights, safety or welfare of any person, property or entity or the environment;

Insolvency Event means an event where:

- (a) an order is made or a resolution is effectively passed for a party's winding-up or dissolution;
- (b) a party goes into liquidation or makes an assignment for the benefit of, or enters into an arrangement, composition or compromise with its creditors, or any class of creditors;
- (c) a receiver and manager, controller, administrator, trustee or similar officer is appointed over all or any part of a party's assets or an application or order for such appointment is made;
- (d) execution is levied against a party and is not discharged within 30 Business Days;
- (e) a party is unable to pay its debts as and when they fall due, or a party are deemed unable to pay its debts according to applicable law or Authorisation (other than because of a failure to pay a debt or Claim the subject of a good faith dispute);
- (f) a party (being an individual) becomes bankrupt, or commit an act of bankruptcy; or
- (g) anything analogous or having similar effect to anything referred to in paragraphs (a) to (f) of this definition occurs to a party;

Intellectual Property Rights means intellectual property and rights including any copyright, trademarks, patents, designs, circuit layout rights, the right to protect confidential information, know-how and trade secrets

and any application or right to apply for registration of any of those rights;

Legislative Requirements means:

- (a) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the jurisdiction applicable to the Goods and/or Services; and
- (b) certificates, licences, consent, permits, approvals and requirements of organisations having jurisdiction applicable to the Goods and/or Services;

Liability means all liabilities, damages, remedies, Losses, penalties, fines, costs, expenses (including legal fees and expenses on a full indemnity basis), demands, claims and proceedings of any nature;

Loss means all claims, demands, causes of action, loss, liability and costs on an indemnity basis, whether actual or contingent, incurred or imposed solely or jointly or on any account of any nature whatsoever;

Personnel means, in relation to a party or a Third Party, any employee, officer, agent, contractor or subcontractor of that party (but excluding the other party and its Personnel);

Principal means the principal referred to in the Purchase Order and any of its Related Bodies corporate;

Principal's Equipment means all equipment, consumables, camp, tools, spare parts, special tools, and other items owned, rented, hired, chartered or leased by Principal or any subcontractors of the Principal;

Principal Group means the Principal, its Related Bodies Corporate, their subcontractors and their respective employees, directors, officers, agents and invitees (which are not part of the Supplier Group);

Purchase Order means a purchase order in substantially the same form as in the Schedule or other similar confirmation issued by the Principal to the Supplier;

Related Body Corporate has the meaning given to that term in the *Corporations Act 2001* (Cth);

Related Entity means:

- (a) an entity in which any director, officer, Associate or shareholder of a party holds a legal or beneficial interest;
- (b) a Related Body Corporate of a party or a Related Body Corporate of an entity referred to in sub-paragraph (a) of this definition; or
- (c) any agent or third party engaged by any of the persons referred to in sub-paragraph (a) or (b) of this definition to provide services the same as or substantially similar to the Services;

Safety Act means, if the Services are provided in:

- (d) New South Wales, the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (NSW);
- (e) Northern Territory, the *Work Health and Safety (National Uniform Legislation) Act 2011* (NT);

(f) Queensland, the *Work Health and Safety Act 2011* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld);

(g) South Australia, *Work Health and Safety Act 2012* (SA) and the *Gas Act 1997* (SA),

and any subsequent amendments to each of the abovementioned Acts;

Security of Payment Act means, if the Services are provided in:

- (a) New South Wales, the *Building and Construction Industry Security of Payment Act 1999* (NSW);
- (b) Northern Territory, the *Construction Contracts (Security of Payment) Act 2004* (NT);
- (c) Queensland, the *Building and Construction Industry Payments Act 2004* (Qld);
- (d) South Australia, *Building and Construction Industry Security of Payment Act 2009* (SA),

and any subsequent amendments to each of the abovementioned Acts;

Services means:

- (a) the services referred to on the front of the Purchase Order;
- (b) any other services expressly or impliedly agreed to be supplied to the Principal by the Supplier in connection with the Purchase Order; and
- (c) any other services supplied to the Principal by the Supplier, to the extent these Conditions apply to the supply of those services;

Site means the places and locations to be made available and any other lands and places made available to the Supplier by the Principal for the purpose of the Supplier performing the Services or for any other purpose under the Contract;

State means the State referred to in the Purchase Order;

Supplier means the supplier referred to in the Purchase Order;

Supplier's Equipment means all equipment, materials, consumables, camp, tools, spare parts, special tools, and other items owned, rented, hired, chartered or leased by Supplier or any subcontractors of the Supplier;

Supplier Group means the Supplier, its Related Bodies Corporate, their subcontractors and their respective employees, directors, officers, agents and invitees (which are not part of the Principal Group);

Third Party means any party that is not a member of the Supplier Group or the Principal Group;

Variation means any increase, decrease or omission to the Goods or Services to be supplied or performed under the Contract;

Website means www.ingauge.com.au.

Well means:

- (a) for drilling: the location where the Supplier is to drill a hole and the hole created by the Supplier providing the Services under the Contract; or

- (b) for workover: the well nominated by the Principal for which the Supplier is to provide the Services under the Contract;

Well Site means the location where the Supplier shall supply the Services as stipulated under the Contract; and

Wilful Misconduct means any act or omission by a party, which was committed deliberately with the intention to cause loss, harm or damage and with wanton indifference by that party with respect to the harmful consequences, loss, harm or damage that party knew would result from that act or omission.

17.12 Interpretation

In the Contract, unless a contrary intention is apparent:

- (a) a reference to a clause is a reference to a clause of these Conditions;
- (b) references to natural persons include corporations and vice versa;
- (c) a provision of these Conditions must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of these Conditions or the inclusion of the provision in the Contract;
- (d) words such as "include" or "including" are not words of limitation;
- (e) if a party includes two or more persons, an obligation of those persons is joint and several, a right of those persons is held by each of them separately, and any other reference to that party or term is a reference to each of those persons separately;
- (f) where a word or phrase is defined or given meaning, any other part of speech or grammatical form has a corresponding meaning; and
- (g) the plural includes the singular and vice versa.

Schedule – Sample Purchase Order

Goods and Services Purchase Order

Item 1	Purchase Order Number	[INSERT]				
Item 2	Date of Purchase Order	[INSERT]				
Item 3	Service Specifications	[INSERT]				
Item 4	Good Specifications	[INSERT] Model: [INSERT] Technical specifications: [INSERT] Delivery Date: [INSERT] Date of Installation (if relevant): [INSERT]				
Item 5	Delivery/Site Address	[INSERT]				
Item 6	Contract Price	<p>[if lumpsum] Total Cost: [INSERT]</p> <p>[if rates] The Contract Price shall be calculated in accordance with the following schedule of rates and the terms set out below:</p> <table border="1"> <thead> <tr> <th>Name/Role</th> <th>Rate</th> </tr> </thead> <tbody> <tr> <td>[INSERT] (office/field based)</td> <td>[\$[INSERT]/[day/hour] +GST</td> </tr> </tbody> </table> <ul style="list-style-type: none"> All hourly charges will be rounded off to the nearest 1/2 hour, with a minimum charge under an hourly rate being 1/2 hour. All day rates will be charged as full days, regardless of how many hours are worked during the day. The number of hours worked in a full day for field based roles is 12 hours and for office based roles is 8 hours. Overtime in the case of field based roles (beyond normal full day), will be charged at hourly rates. <p>Delivery Cost [if relevant]: [INSERT] Installation Cost [if relevant]: [INSERT]</p>	Name/Role	Rate	[INSERT] (office/field based)	[\$[INSERT]/[day/hour] +GST
Name/Role	Rate					
[INSERT] (office/field based)	[\$[INSERT]/[day/hour] +GST					
Item 7	Principal	[INSERT]				
Item 8	Principal Representative	Attention: [INSERT] Address: [INSERT] Email Address To: [INSERT] cc: [INSERT]				
Item 9	Supplier	InGauge Energy Pty Ltd ACN 164 429 190				
Item 10	Supplier Representative	Attention: [INSERT]				

		Address: [INSERT] Email Address To: [INSERT] cc: [INSERT]
Item 11	State	<input type="checkbox"/> Qld <input type="checkbox"/> NT <input type="checkbox"/> SA <input type="checkbox"/> NSW
Item 12	Notice Period	[INSERT]
Item 13	Direct Engagement Fee	[\$[INSERT]]
Item 14	Special Conditions	[INSERT]

This Purchase Order is subject to the Supplier's *Standard Terms and Conditions* set out at [this link](#). By requesting any Goods or Services, the Principal acknowledges that it has received and agreed to those terms and conditions.

Executed for and behalf of the **Principal** by its duly authorised representative:

.....
Signature of Authorised Representative

.....
Full Name

.....
Position

.....
Date