

Upstream Production Solutions Pty Ltd

ABN 26 166 665 952

Purchase Order Terms and Conditions

1. DEFINITIONS

In the Purchase Order Documents, the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

- a) "Contract" means the agreement between Upstream PS and Supplier as evidenced in the Purchase Order Documents referred to in Clause 2;
- b) "Incoterms 2010" means International Rules for the Interpretation of Trade Terms published by the International Chamber of Commerce, January 2010;
- c) "Material" shall mean the articles, materials, supplies, goods & services or other items constituting the subject matter of the Purchase Order;
- d) "Premises" means premises, at which Upstream PS requires the Work to be carried out, but does not include premises owned or provided by Supplier or its agents and subcontractors.
- e) "Purchase order" means a document entitled purchased order or service order, which shall be subject to these terms and conditions and issued by Upstream PS to the supplier to order any materials under these terms and conditions.
- f) "Purchase Order Price" shall mean the price stated in the Purchase Order being the full amount Upstream PS will pay supplier as full and complete consideration for its obligations under the Contract and including any additions or deductions which may be required to be made pursuant to any variations required by Upstream PS pursuant to the Contract;
- g) "Supplier" means the person, firm or company, to which the Purchase Order is issued, including the legal successors and permitted assigns thereof.
- h) "Upstream PS" shall mean Upstream Production Solutions Pty Limited, ABN 26 166 665 952;
- i) Words importing persons include firms and corporations, words importing singular also include plural, and words importing one gender include all genders.
- j) "Work" shall mean all work and services, including but not limited to those works and services as set out in a Purchase Order or may be necessarily requested to be performed by the supplier pursuant to the purchase order. which under the Contract, Supplier is or may be required to execute.

2. CONTRACT

- a) The Purchase Order, together with all attached documents or documents incorporated by reference (referred to as "the Purchase Order Documents"), constitutes the entire terms of the Contract and shall not be modified except in writing. The Purchase Order shall not be valid unless executed by Upstream PS's authorised representative.
- b) The order of precedence of Purchase Order Documents shall be: the Purchase Order, these Terms and Conditions and attached Specifications, Instructions to Suppliers (if any), and then Drawings as attached to any purchase order.
- c) No waiver of a breach of any provision of the Purchase Order shall constitute a waiver of any other breach, such as provision or of any other provision.
- d) Where a term used in the Contract is a term included in Incoterms 2010, then the rules and definitions applicable to that term in Incoterms 2010 shall be deemed to be incorporated in this Purchase Order, except insofar as they may conflict with any other provisions of the Contract.
- e) The application of all or any of the provisions of the United Nations Convention on Contracts for International Sale of Goods (Vienna Sales Convention) to this Agreement, or incorporation of such provisions into this Agreement, at any time is expressly excluded in all respects.
- f) Upstream PS may make changes to the Purchase Order, including designing, specifications, drawings, place of delivery, by giving written

notice to Supplier. Supplier shall proceed immediately to perform the Purchase Order as changed. If any such changes affect the cost or the time required for performance of the Purchase Order, Upstream PS and Supplier will agree upon an equitable adjustment in the price or date of delivery, or in both. To qualify for adjustment consideration, Supplier must send written notice to Upstream PS of Supplier's intent to file a claim under this clause within 21 days from the date of receipt by Supplier of such written notice of change. Supplier shall proceed with the changed Purchase Order pending resolution of any claim for adjustment. Upstream PS may act upon any such claim at any time prior to final payment under the Purchase Order. Nothing in this clause excuses the Supplier from delivering the Material and/ or Work described in the Purchase Order as changed.

3. LAW OF CONTRACT AND JURISDICTION

The Contract shall be governed by and construed according to the laws in force in Victoria, Australia, and the parties agree to submit to the jurisdiction of the courts of Victoria.

4. WARRANTY

- a) Supplier represents and warrants that the Material (and/or Work, wherever applicable) is: new, fit and sufficient for the use and purpose intended in the contemplated conditions of service (to the extent such use, purpose, and conditions of service are evidenced in the Purchase Order, reasonably inferred there from or otherwise advised by Upstream PS; merchantable; of sound design, workmanship, and material and without defects; in strict accordance with the Purchase Order and that they will satisfactorily fulfil the operating performance requirements specified therein.
- b) Supplier acknowledges and agrees that all warranties and obligations of the Supplier expressed in this Contract and any relevant Purchase Order may be held by Upstream PS as agent for the benefit of its affiliates and for Upstream PS's customers. Supplier warrants that the Material and Work provided under the Purchase Order will not infringe or violate any patents, trademarks or copyrights or other rights of any third party. Supplier shall assign all express warranties of any manufacturer of the Material and Work for the benefit of Upstream PS
- c) Supplier will provide adequate competent and appropriately trained staff and supervision thereof, and will in all respects perform at least that degree of care, skill and diligence normally exercised by persons regularly engaged in Supplier's business or profession.
- d) Supplier shall have the final and total responsibility for the performance of all Materials (and/ or Work, wherever applicable) supplied under this specification. Supplier's warranty shall be extended to cover the design and operating parameters specified in this Contract.
- e) Unless specified to the contrary, all Material and Work shall comply with the latest revision of the Standards or Codes issued by the Standards Association of Australia; or any other relevant standards or codes referred to in the Contract or Purchase Order.
- f) Unless otherwise stated, the Warranty Period shall expire twelve (12) months after the date of first placing the Material or performing the Works into service or twenty-four (24) months after the date of delivery whichever is the sooner. During the Warranty Period Supplier shall, at its own expense, repair or replace any Material or perform any Work, defective as to design, materials or workmanship, promptly upon receipt of written notice from Upstream PS Supplier agrees to proceed with the correction of any defects in a manner satisfactory to Upstream PS Supplier shall assume all risks of loss or damage to Material, which is to be corrected or replaced pursuant to this warranty remedy from the date on which Supplier is notified of the defect or nonconformity until the corrected Material or replacements are received at destination designated by Upstream PS Alternatively, Upstream PS may at its option repair such defective Material at Supplier's expense. These warranties are in addition to those otherwise offered by Supplier. Supplier's warranty shall apply to Upstream PS, its successors, assigns and customers, and third-party users of products and services provided by Upstream PS Supplier will insert this clause, in all

subcontracts required to be entered into by supplier under the relevant Purchase Order.

5. TITLE AND PROPERTY

- a) Supplier warrants the Material is (and at the time the property will pass to Upstream PS will be) free and clear of all liens, charges, taxes and encumbrances and that Supplier has (and at the time the property will pass to Upstream PS will have) a good and marketable title thereto, and that Upstream PS shall have and enjoy quiet possession of the Material.
- b) Title to and property in Material shall pass to Upstream PS at the time such Material are identified solely for incorporation, use or consumption in the Work or otherwise appropriated for the purposes of Work (whether or not payment has been made with respect thereto). Such Material shall be appropriately marked as being the property of Upstream PS
- c) If Upstream PS requests, a proper release of all liens or satisfactory evidence of freedom from all liens will be delivered to Upstream PS

6. RISK IN MATERIAL

Material shall remain at the risk of Supplier until delivered to Upstream PS in accordance with the terms and conditions of the Purchase Order.

7. INVOICING

- a) Unless otherwise stated, invoices shall be submitted to Upstream PS, upon delivery of the Material in accordance with the Contract. All invoices sent to Upstream PS shall be complete, correct and have sufficient detail for Upstream PS to effect payment.
- b) In this clause terms have the meanings given those expressions in the A New Tax System (Goods and Services Tax) Act 1999 (Cth). Unless otherwise specified, the fees payable and any other consideration under this Contract are exclusive of GST. If GST is imposed on any supply made under or in accordance with this Agreement, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the supply subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment. Any reimbursement of expenses under this Contract will be net of input tax credits to which the party is entitled. The recipient may be required to withhold from any payment it is to make to the supplier such amount required by the Taxation Administration Act 1953 (Cth) unless the supplier has, on or before the time payment is due, provided the recipient with an invoice quoting the supplier's correct ABN. Invoices shall be issued separately for each Purchase Order. The invoice must contain the following information before Upstream PS or Principle (if applicable) will process the invoice:
 - i) Project Name
 - ii) Project Number
 - iii) Purchase order number
 - iv) Person who raised the Purchase order
- c) Invoices will not be processed and will be returned to the supplier if:
 - i) Total value does not match the quoted price on the invoice
 - ii) Additional items have been included that are not on the original PO (regardless of who authorised the changes) unless 10
 - iii) A variation to purchase order is attached and duly authorised by an Upstream PS representative.
 - iv) All inquiries concerning payment, supply or any other query must specify the Purchase Order number.
- d) Invoices are to be supplied with the materials or equipment at time of delivery unless otherwise agreed in writing by an approved Upstream PS Representative.

8. PURCHASE ORDER

- a) All purchase order requests for goods and services must be submitted on an Upstream PS purchase order form in order to be binding.,
- b) It is an Upstream PS policy that only requests to purchase via an official Upstream PS Purchase Order will be deemed as the only approved method of purchase request, verbal, email or any other such method of request will not be acknowledged and therefore invoices will not be paid. 11
- c) Where works are required, it will be a requirement of the Supplier to attach timesheets signed and authorised by the Upstream PS supervisor for all

Works undertaken, failure to provide appropriate supporting documentation to Upstream PS may result in invoices being rejected until such time that the required information, approval and proof is received by Upstream PS. Discounts shall be separately stated on the invoice. Invoice processing charges shall not be levied unless there is a special written agreement for this.

- d) When the Work commissioned under the Purchase Order is to be paid for on an hourly rate basis, daily timesheets, unless otherwise agreed, shall be certified by authorized Upstream PS personnel and attached to the invoice. The timesheets shall be originals or copies with an original signature. If agents and subcontractors are used, a copy of their invoices shall always accompany the invoice issued to Upstream PS

9. PAYMENT

- a) Unless otherwise stated, and except as provided in Clause 8. c) & (d), payment terms shall be 100 per cent net thirty (30) days from the end of the month that the latest of the following occurs:
 - (i) receipt of correct invoices by Upstream PS
 - (ii) scheduled delivery date of Material and/ or Work
 - (iii) actual delivery of Material and/ or Work.
- b) Payment shall be deemed to have been made as of the date of mailing of Upstream PS's payment or electronic funds transfer. Upstream PS shall have the right to withhold payments in events of Supplier's unsatisfactory performance under the Purchase Order. Payment shall not constitute acceptance of Material and/ or Work. Payment shall not prejudice Upstream PS's right to return nonconforming Material, nor its right to receive credit or reimbursement for the nonconforming Material. Upstream PS is not responsible for any fee levied on Supplier by Supplier's bank in connection with payment received from Upstream PS
- c) Upstream PS may withhold five percent of the Purchase Order Price as retention for the Warranty Period referred to in Clause 4, or may require Supplier to provide, at Supplier's expense, a Bank Guarantee.
- d) Upstream PS may also retain ten (10) per cent of the Purchase Order Price against receipt of all mechanical catalogues, final arrangement and detailed certified drawings and certificates as required by the Contract.
- e) A Bank Guarantee referred to in sub clause c) must be established with an Australian Financial Institution acceptable to Upstream PS, and shall be forwarded at time of final delivery of Material. The Bank Guarantee must be an irrevocable, unconditional, enforceable banker's undertaking, payable on demand, equivalent to five (5) percent of the Purchase Order Price, and will be retained by Upstream PS until the end of the warranty period.
- f) Without limiting Upstream PS's rights to any other method of recovery, all debts and monies due from Supplier to Upstream PS under or by virtue of any provision of the Contract, and all costs, charges, damages and expenses, which Upstream PS may have incurred or paid, for which Supplier is liable, or in respect of which Supplier is under the Contract liable to pay or reimburse, may be deducted by Upstream PS from any monies payable or to become payable by it to Supplier.

10. PLANS, SPECIFICATIONS AND REPORTS

- a) Supplier shall furnish all engineering and other data in accordance with and within the time stated in the Contract.
- b) The review and approval of drawings and data by Upstream PS is for general conformity to Contract requirements only and shall not alter Supplier's responsibilities of full compliance with the Contract.
- c) Supplier shall provide Upstream PS with a detailed programme for the projected supply of Material and/ or execution of Work.
- d) Supplier shall submit to Upstream PS each month (or at such other intervals as Upstream PS directs) a progress report that shall cover all aspects of planning, engineering, procurement, fabrication, inspection and testing, and shall include a description of all inspection rejections and test failures and their resolution.

11. CONFIDENTIALITY

Supplier shall keep secret and confidential, and shall not disclose to any third party without prior written consent of Upstream PS any information,

data, specifications, drawings, reports, accounts or other documents supplied or made available by Upstream PS to Supplier or brought into existence by Supplier in or for the purpose of the Contract, and Supplier shall take precautions as may be necessary to prevent such disclosure, including obtaining confidentiality agreements from its employees, agents and subcontractors. Supplier shall indemnify and hold harmless Upstream PS, its directors, officers, customers, agents, subcontractors and employees from and against any and all liabilities, claims, suits, demands, disputes, resources, damages and expenses including reasonable legal fees arising from any and all claims in respect of, or resulting from, the use or the disclosure of Confidential Information by Supplier, its employees, agents and subcontractors. Upon completion, cancellation or termination of the Purchase Order for any reason whatsoever, Supplier shall turn over to Upstream PS any and all copies it may have of confidential information. The obligations contained in Clause 10 shall survive the term or termination of the Contract, and shall be enforceable at law or in equity at any time.

12. INSPECTION AND EXPEDITING

- a) Upstream PS or its nominated representative shall be entitled at all reasonable times during manufacture to expedite or inspect, examine and witness tests on Material and/ or Work, workmanship and performance at Supplier's and/or Supplier's sub-contractor's premises without additional charges, and Supplier shall make this a condition of any sub-contract work. Inspection may also be carried out by Upstream PS at its discretion at the job site within reasonable time after delivery.
 - b) Supplier shall ensure access at all reasonable times to Supplier's and Supplier's sub-contractor's premises, without additional charges, for the purpose of inspection of the Material and/ or Work, or for the purpose of expediting the supply of Material or the execution of Work. Upstream PS may also request unpriced copies of Supplier's and/ or Supplier's sub-contractor's purchase orders placed for Material for the Contract, and Supplier shall make this a condition of any sub-contract work.
 - c) Supplier shall advise Upstream PS and its nominated inspection representative(s) ten (10) days in advance of the date the equipment will be ready for final inspection or for performance tests, when required, in order that appropriate representatives will be present.
 - d) If upon inspection any Material is found to be damaged, unsatisfactory, defective, or of inferior quality or workmanship, or fails to meet the specifications or any other requirements of the Contract, Upstream PS may at its sole discretion elect either to return such Material to Supplier, or to make good or cause to be made good the defective or inferior Material. Any costs associated with the making good will be for the Supplier's account. Payment for Material prior to inspection shall not be construed to be an acceptance of unsatisfactory or defective Material. Upon return of any unsatisfactory or defective Material, Supplier shall reimburse Upstream PS for:
 - i) any amounts paid by Upstream PS on account of the purchase price of returned Material; and
 - ii) Any cost incurred by Upstream PS in connection with the delivery or return of Material.
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- e) Acceptance of all or any part of the Material by Upstream PS shall not constitute a waiver of Upstream PS's rights either to cancel or return all or any part thereof because of failure of such Material to conform to the requirements set out in the Contract or by reason of defects, latent or patent or of inferiority of Material or the components thereof, or other breach of warranty or no fulfilment of any conditions, or to make any claim for damages suffered by Upstream PS. Such right shall be in addition to any other remedies provided by law.
 - f) Acceptance of any part of the Material supplied under the Contract, which is not in accordance with the terms thereof, shall not bind Upstream PS to accept future shipments.
 - g) Inspection or acceptance of the Material and/ or Work by Upstream PS shall not be deemed to alter or affect any obligation of Supplier.
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- h) Supplier shall not retender rejected Work without disclosing the corrective action taken.

13. ASSEMBLY MARKS

Supplier shall ensure that all Material is adequately, visibly and indelibly hand marked with such identification marks as are required by Upstream PS. These identification marks shall also be shown on drawings and on despatch and shop lists.

14. PACKING AND SHIPPING

- a) Supplier shall package all Material in suitable containers to permit safe transportation and handling, to prevent damage, and deterioration and contamination, and to be despatched as instructed in the Contract. Supplier shall be liable for any expense, loss or damage or difference in freight charges arising from failure to follow these instructions. Upstream PS reserves the right to arrange transportation for any or all Material.
- b) Each delivered container must be labelled and marked to identify its contents without having to be opened, with gross deadweight, and all boxes and packages must contain packing sheets listing the contents. Upstream PS's Purchase Order number as well as part number must appear on all shipping containers, packing sheets, delivery tickets and bills of lading.
- c) Should Supplier experience any delay in performing the Purchase Order, Supplier shall immediately notify Upstream PS in writing of such delay, its expected duration and the reason thereof. Such notification and acknowledgement by Supplier shall not constitute a waiver of the Purchase Order's delivery schedule.

15. WORK ON UPSTREAM PS'S PREMISES

While on the Premises

- a) Supplier shall use best endeavours not to impede or interfere with any activities being carried out by Upstream PS or any third party on the Premises.
- b) Supplier shall ensure that its servants, agents and sub-contractors observe all applicable laws with respect to safety matters and comply with the safety regulations of Upstream PS, and with the directions and orders of Upstream PS or its authorised officers in regard thereto.
- c) Supplier shall pay all labour engaged in the performance of its obligations hereunder not less than the award wage prevailing.
- d) Supplier shall observe such safety rules, as Upstream PS shall prescribe as necessary, for the protection of personnel and Upstream PS's property, and shall limit smoking and the use of fire, including welding and torch cutting, to such locations and occasions as are specifically authorised in writing by Upstream PS.
- e) All labour, tools, instruments, materials and appliances necessary for the completion of Supplier's obligation hereunder shall be provided by Supplier at Supplier's own expense, except where otherwise specified by the Contract, and shall at all times be sufficient to ensure completion of such obligation at the time and in the manner provided for in the Contract.

16. UPSTREAM PS SUPPLIED MATERIALS

Where Upstream PS, for the purpose of the Contract, issues materials, tools or equipment "free of charge" to Supplier, such materials, tools or equipment shall be and shall remain the property of Upstream PS. Supplier shall be responsible for and shall make good any loss of or damage to such materials. Supplier shall maintain all such materials, tools or equipment in good order and condition, subject, in the case of tooling patterns and the like, to fair wear and tear.

Supplier shall use such materials, tools or equipment solely in connection with the Contract. Any surplus materials shall be disposed of at Upstream PS's discretion. Waste of Upstream PS supplied materials, tools or equipment arising from bad workmanship or negligence of Supplier shall be made good at Supplier's expense.

17. INDEMNITIES

- a) Supplier shall indemnify and hold harmless Upstream PS and its directors, officers, customers, agents, subcontractors and employees against any liability, loss, damages, claim, suit, action, demand, expense or proceedings of whatsoever nature arising from or incurred by reason of any infringement or alleged infringement of letters, patent, design,

trade mark or name. copyright or other protected rights in respect of any machine, equipment, work, material, system or method used or supplied by the Supplier for the purpose of the Contract.

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- b) The Supplier shall be solely liable for and shall indemnify and hold harmless Upstream PS and its directors, officers, customers, agents, subcontractors and employees against any liability, loss, damages, claim, suit, action, demand, expense or proceedings of whatsoever nature and however arising:
- under Statute or at common law in respect of personal injury (which expression shall include illness) to or death of any or all persons whomsoever; or
 - out of the negligence, acts or omissions, or wilful misconduct of Supplier or Supplier's employees, officers, consultants, agents and subcontractors; or
 - In respect of loss, or destruction of, or injury or damage to, or loss of use of any and all property, employees, officers, consultants, agents and subcontractors (including but not limited to the property of Upstream PS) arising out of, or in the course of, or caused by the execution of the Work, or other obligations hereunder.
- c) To the maximum extent permitted by law, the Supplier shall be solely liable for and shall indemnify and hold harmless Upstream PS from and against all loss, liability and damage caused by, or to the extent contributed to by any act or omission of Supplier's personnel whilst under the direction, supervision, instruction or control of Upstream PS
- d) In addition to the indemnities expressed elsewhere in this Contract, Upstream PS shall not be liable for, and the Supplier shall indemnify Upstream PS against, any claim (whether in tort, contract or otherwise at law) or loss incurred or suffered by any person arising out of or in connection with any pollution or environmental contamination of any nature, including but not limited to:
- (i) any pollution occurring on or near the premises of Upstream PS or any third party, or emanating from the property or equipment of the Supplier, Upstream PS or other property, premises or equipment used or accessed in the performance of the Services;
 - (ii) clean up, rehabilitation and pollution containment and associated costs with such pollution or environmental contamination;
 - (iii) whether such loss is caused or contributed to by Upstream PS or their negligence or breach of duty (whether statutory or otherwise) or not.
- e) Except to the extent otherwise expressly provided, neither Upstream PS nor Supplier shall be liable to the other for any consequential loss or damage, including but not limited to loss of revenue, loss of production, or loss of profit.
- f) Notwithstanding any other clause in this Contract and to the maximum extent permitted by law, Upstream PS's total aggregate liability to the Supplier whether arising under this Contract, in tort or otherwise at law, is limited to the total amount paid by Upstream PS to the Supplier in respect of the relevant Purchase Order.
- g) The following provisions will apply to each indemnity provided for under the Contract:
- (i) Each indemnity will survive the expiry or any termination (for cause or otherwise) of this Contract.
 - (ii) Each indemnity will be deemed to extend to and for the benefit of the directors, agents, representatives, advisers, consultants and employees of the indemnified party, subject to the express terms of the indemnity.
 - (iii) No indemnity is waived by any provision of this Contract with regard to insurance or by approval of any insurance policy.
 - (iv) If either party becomes aware of any incident likely to give rise to a claim under an indemnity, they will notify the other and both parties will cooperate fully in investigating the incident. The indemnifying party must manage any claims under the indemnity and the indemnified party will give the indemnifying party notice of any such claim and will supply the indemnifying party with details and information it may have relating to the claim in an expeditious manner and will take no action to compromise the indemnifying party's legal position in relation to the claim.

- (v) A Party claiming the benefit of an indemnity will take all reasonable steps to minimise loss or damage suffered by it.

18. INSURANCE

- a) Supplier shall take out and maintain at its cost:
- (i) Insurance in compliance with all applicable laws and in respect of any and all liability to its officers, servants, agents, subcontractors and employees engaged on the Work for Workers Compensation and for an unlimited amount upon common law.
 - (ii) Insurance under a Comprehensive Public and Products Liability Policy with Upstream PS as a named insured to cover all sums, which it may become legally liable to pay as compensation consequent upon accidental death of, or bodily injury (including illness) to any person or accidental loss or damage to property (including consequential loss), with a limit of liability of not less than \$5,000,000.00 unless otherwise agreed; and
 - (iii) Insurance up to the time the Material leaves Supplier for not less than the replacement value of the Material.
- b) Transit Insurance is the responsibility of Upstream PS

19. GENERAL

- a) Supplier shall at its own expense obtain all requisite licences and permits, and comply with all applicable laws and regulations in connection with the Work or installation or supply of the Material.
- b) Upstream PS may at any time by written notice add to, vary, alter, amend or omit Work under the Contract without prejudice to the Contract, and Supplier shall carry out such variations and shall be bound by the same conditions, so far as they are applicable, as if such variation was part of the Work originally included to them.
- c) Supplier is an independent contractor and not the employee or agent of Upstream PS for any purpose.
- d) Supplier hereby grants to Upstream PS a royalty free, world wide, irrevocable licence to copy or reproduce any documents, manuals, calculations, data, reference literature or other documentation or parts thereof relating to or included with the Material to be supplied or delivered under the Contract for use by Upstream PS and its personnel as required to properly utilise the Material, including installation, operating and maintaining the Material.

20. TERMINATION/SUSPENSION

- a) Upstream PS may terminate all or any part of this Contract or purchase order at any time upon seven (7) - day written notice to the Supplier without assigning any reason, therefore. In such event, the Purchase Order shall, if Supplier's written claim for adjustment is received within thirty (30) days after effective date of termination, be equitably adjusted, provided that such adjustment shall not exceed the total Purchase Order price, nor allow any amount for profit or anticipated profit for performance not rendered, nor any allowance for consequential loss or damage.
- b) Termination shall not relieve Upstream PS or Supplier of their respective obligations as to any unperformed Work. Upon receipt of written termination notice, Supplier shall stop Work to the extent specified in the notice and take such other action as may be necessary, or as Upstream PS may direct for the transfer, protection and preservation of property and contract rights which related to the termination, and Supplier shall use its best endeavours to minimise the costs arising from such termination.
- c) Upstream PS may, at any time and from time to time, suspend the Work or any part thereof, for any reason whatsoever, by giving written notice to the Supplier, whereupon the Supplier shall suspend the Work or part thereof for such time or times as Upstream PS may direct.
- d) Supplier shall promptly comply with a direction of Upstream PS to recommence the Work, or any suspended part.

21. ASSIGNMENT

- a) Supplier shall not assign, transfer, novate or sub-contract this Contract in whole or in part without Upstream PS's prior written approval.

- b) An approval to subcontract pursuant to Clause 20 a) given by Upstream PS shall not relieve the Supplier from any of its obligations or liabilities under the Contract. Notwithstanding any approval to subcontract the Supplier shall be liable to Upstream PS for the acts, defaults and neglects of any subcontractor of the Supplier as fully as if they were the acts, defaults or neglects of the Supplier.
- c) Upstream PS shall have the right to assign all or any of its obligations or rights under the Contract at any time to any related body corporate (as the expression is defined in the Corporations Act 2001 (Cth) or to any principal or customer of Upstream PS

22. COMPLETION

Supplier shall complete the Work on or before the date specified in the Contract. Where a date is specified for completion of a part of the Work, the Supplier shall complete such part of the Work on or before the date so specified.

23. EXTENSION ON TIME FOR DELIVERY

- a) If Supplier is delayed in the completion of the Work or part thereof by reason of an Act of God, or war, or an act of default of Upstream PS, Supplier shall give the earliest possible notice in writing of the cause of the delay and the effect on the completion of the Work or part thereof, and the parties shall agree such extension of time, if any, for completion of the Work or part thereof as is reasonable.
- b) Upstream PS may, at any time and from time to time for any reason it thinks fit, by notice in writing to the Supplier, extend the time for completion of the Work or part thereof by nominating a date specified in the notice as the date for completion of the Work or a part thereof, and the date so specified in the notice shall be deemed to be the date for completion of the Work or part thereof as specified in the notice.

24. LIQUIDATED DAMAGES

- a) Supplier shall pay Upstream PS as liquidated damages a sum equal to one (1) percent of the Purchase Order Price for each week (or part thereof pro rata) the completion of the Work is delayed after the date so specified for completion of the Work (as extended pursuant to Clause 22), subject to a maximum of five (5) percent of the Purchase Order Price.
- b) If a separate date for delivery of part of the Work is specified, then in respect of delay of such part of the Work, the liquidated damages to be paid by Supplier in respect thereof shall be in like proportion to the Purchase Order Price of such part of the Work.

25. AUDIT

Where this order involves the supply of goods and/or services or the hire of equipment on a cost plus basis or on a rate per hour basis, Upstream PS reserves the right to conduct an audit of the basis of charges utilising records maintained by Supplier for the purposes of calculating invoice charges to Upstream PS Such audit right to extend for a period of twelve (12) months after payment of subject invoices of Upstream PS

26. DEFAULT

A party is in default of its obligations under the Purchase Order if any of the following events occur, namely:

- (i) Such party is adjudged bankrupt or insolvent by a court of competent jurisdiction, or otherwise becomes insolvent, as evidenced by its inability to pay its debts generally as and when they become due; or
- (ii) Such party is in default of its obligations hereunder and fails to cure such default within thirty (30) days of written notice from the other party, or if such default cannot be cured within thirty days, within such longer period as may be reasonable, provided the defaulting party commences promptly and diligently proceeds with curing the default.

Upon the occurrence of any of the above events, the party not in default may, by written notice to the defaulting party, terminate the Purchase

Order without prejudice to any other right or remedy available to it at law and without liability for such termination. Neither the Supplier nor

Upstream PS shall be liable to the other for indirect damages, for loss of profit or for damages arising from loss of use or production.

27. BUSINESS STANDARDS

Supplier shall establish and maintain precautions to prevent its employees, agents or representatives from making, receiving, providing, or offering substantial gifts, entertainment, payments, loans, or other considerations to employees, agents, subcontractors or representatives of Upstream PS for the purpose of influencing those persons to act contrary to the best interests of Upstream PS These obligations shall apply to the activities of the employees of Supplier and its subcontractors in their relations with the employees of Upstream PS or third parties arising from the Purchase Order.